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VOLUME II
REGULAR SESSION, 2016

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

COMPILED AND PUBLISHED
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**SCHEDULE SHOWING LEGISLATIVE DAYS
AND CALENDAR DAYS
AND PAGES OF JOURNAL COVERING SAME**

REGULAR SESSION, 2016

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THURSDAY, FEBRUARY 25, 2016

FORTY-FOURTH DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, February 24, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 10, Creating Unborn Child Protection from Dismemberment Abortion Act,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4346, Relating to bear hunting and offenses and penalties,

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

Com. Sub. for H. B. 4346 - “A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to bear hunting and offenses and penalties,”

With the recommendation that the committee substitute do pass.

(Note: Due to an error in the Committee report for H. B. 4346, a corrected report was subsequently reported.)

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

Your Committee on the Judiciary has had under consideration:

H. B. 4324, Authorizing information sharing by Workforce West Virginia,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4279, Relating to disposition of seized firearms,

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

Com. Sub. for H. B. 4279 - “A Bill to amend and reenact §20-7-8 of the Code of West Virginia, 1931, as amended, relating to maintenance and disposition of impounded and seized firearms by the Division of Natural Resources.”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4463, Permitting the practice of telemedicine,

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

Com. Sub. for H. B. 4463 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-13a; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to the practice of medicine, permitting the practice of telemedicine; establishing requirements and exceptions for licensure; providing for establishment of physician-patient or podiatrist-patient relationship through telemedicine encounter; establishing certain requirements for physician or podiatrist using telemedicine technologies to practice medicine or podiatry; establishing standard of care for telemedicine medical practice; providing requirements regarding establishment and maintenance of patient records in use of telemedicine; providing limitations on prescriptions which may be made in telemedicine encounters; providing exceptions when in-person physician-patient or podiatrist-patient relationship is established; allowing rulemaking for legislative approval by Board of Medicine and Board of Osteopathic Medicine; and preserving traditional physician-patient and podiatrist-patient relationships,”

With the recommendation that the committee substitute do pass.

Special Calendar

Third Reading

S. B. 419, Relating to termination of Workers’ Compensation Debt Reduction Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 184**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Manchin, Moore and Sponaugle.

Absent and Not Voting: Ferro.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 419) passed.

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

S. B. 419 - “A Bill to amend and reenact §4-11A-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-13A-3b of said code; to amend and reenact §11-13V-4 of said code; to amend and reenact §11-21-96 of said code; to amend and reenact §23-2C-3 of said code; and to amend and reenact §29-22A-10d and §29-22A-10e of said code, all relating to termination of transfers of certain personal income tax revenues to the Workers’ Compensation Debt Reduction Fund; reestablishing and imposing increased severance tax on severance of timber effective July 1, 2016; termination of additional severance taxes on severance of coal, natural gas and timber on and after July 1, 2016; authorizing earlier termination date; authorizing redirection of additional severance tax revenues to the General Revenue Fund for period prior to termination date; delaying transfers of certain personal income tax revenues to the West Virginia Retiree Health Benefit Trust Fund; eliminating transfers of certain personal income tax revenues to the Post-July 1, 2010, Employee Trust Fund; authorizing redirection of amounts collected from certain surcharges and assessments on workers’ compensation insurance policies for periods prior to July 1, 2017; authorizing redirection of amounts collected from certain deposits of revenues derived from net terminal income for periods prior to July 1, 2017.”

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

On this question, the yeas and nays were taken (**Roll No. 185**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Ferro.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 419) takes effect from its passage.

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

Com. Sub. for H. B. 2202, Relating to more equitable disbursement of funds to county boards; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 186**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Guthrie.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2202) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 187**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Guthrie.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2202) takes effect July 1, 2016.

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

Com. Sub. for H. B. 2897, Young Entrepreneur Reinvestment Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 188**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fast and Waxman.

Absent and Not Voting: Ferro.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2897) passed.

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

Com. Sub. for H. B. 4009, Letting Our Counties Act Locally Act; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4171, Relating to the public school calendar; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 189**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cowles, Espinosa, Howell, Skinner and Upson.

Absent and Not Voting: Ferro.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4171) passed.

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

Com. Sub. for H. B. 4171 - “A Bill to amend and reenact §18-5-45 of the Code of West Virginia, 1931, as amended, all relating to primary and secondary school instructional terms; removing the word “separate” throughout the section as it relates to the number of instructional days in the school calendar; requiring that the instructional term for students begin no earlier than August 10 and end no later than June 10, except for schools operating on a balanced calendar; removing preparation for opening and closing school from mandatory list of areas for which remaining noninstructional days may be designated by county school board; designating one noninstructional day for teachers as a preparation day; allowing teacher preparation day to be used for other purposes only at teacher’s discretion; increasing number of two-hour blocks for faculty senate meetings from four to six; removing requirement that faculty senate meetings be held once every forty-five days; permitting accrued minutes to be used for lost instructional days; designating time frames within which faculty senate meetings may take place; requiring county boards to first use accrued minutes for early dismissals and late arrivals and requiring that any reimagining student instructional days be exhausted prior to using accrued minutes for lost instructional days.”

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 190**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Howell.

Absent and Not Voting: Ferro.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4171) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4295, Relating to the School Innovation Zones Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 191**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Ferro.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4295) passed.

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

Com. Sub. for H. B. 4365, Relating to the certificate of need process; on third reading, coming up in regular order, was read a third time.

Delegates Atkinson, Boggs, Campbell, Hartman, Howell, Manchin and Rohrbach requested to be excused from voting on questions related to Com. Sub. for H. B. 4365 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 192**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fluharty.

Absent and Not Voting: Ferro and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4365) passed.

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

H. B. 4572, Excepting specialized contract instructors from the definition of teacher; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 193**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Ferro, McCuskey, Sponaugle and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4572) passed.

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

H. B. 4594, Relating to predoctoral psychology internship qualifications; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 194**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4594) passed.

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

Com. Sub. for H. B. 4612, Relating generally to tax increment financing and economic opportunity development districts; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4617, Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program; on third reading, coming up in regular order, was read a third time.

Delegate Campbell requested to be excused from voting on the passage of H. B. 4617 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 195**), and there were—yeas 98, nays none absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4617) passed.

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

H. B. 4651, Relating to professional examination requirements for hearing-aid dealers and fitters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 196**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4651) passed.

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

On this question, the yeas and nays were taken (**Roll No. 197**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4651) takes effect from its passage.

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

H. B. 4674, Relating to motor vehicle back-up lamps; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 198**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Zatezalo.

Absent and Not Voting: Ferro and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4674) passed.

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

H. B. 4705, Relating to adding an additional type of West Virginia source income of nonresident individual; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 199**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ferro and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4705) passed.

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

On this question, the yeas and nays were taken (**Roll No. 200**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Moffatt.

Absent and Not Voting: Ferro, Kelly and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4705) takes effect from its passage.

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

Second Reading

H. B. 2494, Creating a provisional plea process in criminal cases; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4014, Preventing the State Board of Education from implementing common core academic standards and

assessments; on second reading, coming up in regular order, was read a second time.

At 1:36 p.m., on motion of Delegate Folk, the House of Delegates recessed for ten minutes.

Delegates Folk, McGeehan, Butler and Moffatt moved to amend the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §18-2E-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS:

§18-2E-5. Process for improving education; education standards; statewide assessment program; accountability measures; Office of Education Performance Audits; school accreditation and school system approval; intervention to correct low performance.

(a) *Legislative findings, purpose and intent.* — The Legislature makes the following findings with respect to the process for improving education and its purpose and intent in the enactment of this section:

(1) ~~The process for~~ Improving education includes four primary elements, these being:

(A) Standards which set forth the knowledge and skills that students should know and be able to perform as the result of a thorough and efficient education that prepares them for the twenty-first century, including measurable criteria to evaluate student performance and progress;

(B) Assessments of student performance and progress toward meeting the standards;

(C) A system of accountability for continuous improvement defined by high-quality standards for schools and school systems articulated ~~by a rule promulgated by the state board~~ and outlined in subsection (c) of this section that will build capacity in schools and districts to meet rigorous outcomes that assure student performance and progress toward obtaining the knowledge and skills intrinsic to a high-quality successful education rather than monitoring for compliance with specific laws and regulations; and

(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress;

~~(2) As the Constitutional body charged with the general supervision of schools as provided by general law, the state board has the authority and the responsibility to establish the standards, assess the performance and progress of students against the standards, hold schools and school systems accountable and assist schools and school systems to build capacity and improve efficiency so that the educational standards are met, including, when necessary, seeking additional resources in consultation with the Legislature and the Governor;~~

The Constitution of the State of West Virginia, section one, article twelve thereof, states: ‘The Legislature shall provide, by general law, for a thorough and efficient system of free schools.’ Furthermore, section two, article twelve of said Constitution states: ‘The general supervision of the free schools of the State shall be vested in the West Virginia board of education which shall perform such duties as may be prescribed by law.’ (Emphasis added). Therefore, because the Legislature is empowered to identify ‘such duties as may be prescribed by law’ to the West Virginia Board of Education, it is clearly within the Legislature’s purview to specify appropriate academic standards that will provide for a thorough education. (Emphasis added); and

~~(3) As the Constitutional body charged with providing for a thorough and efficient system of schools, the Legislature has the~~

~~authority and the responsibility to establish and be engaged constructively in the determination of the knowledge and skills that students should know and be able to do as the result of a thorough and efficient education. This determination is made by using the process for improving education to determine when school improvement is needed, by evaluating the results and the efficiency of the system of schools, by ensuring accountability and by providing for the necessary capacity and its efficient use;~~

(4)(3) In consideration of these findings, the purpose of this section is to establish a process for improving education that includes the four primary elements as set forth in subdivision (1) of this subsection to provide assurances that the high-quality educational standards are, at a minimum, being met and that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis. ~~and~~

~~(5) The intent of the Legislature in enacting this section and section five-c of this article is to establish a process through which the Legislature, the Governor and the state board can work in the spirit of cooperation and collaboration intended in the process for improving education to consult and examine the performance and progress of students, schools and school systems and, when necessary, to consider alternative measures to ensure that all students continue to receive the thorough and efficient education to which they are entitled. However, nothing in this section requires any specific level of funding by the Legislature.~~

(b) *Electronic county and school strategic improvement plans.* — The state board shall promulgate a rule consistent with the provisions of this section and in accordance with article three-b, chapter twenty-nine-a of this code establishing an electronic county strategic improvement plan for each county board and an electronic school strategic improvement plan for each public school in this state. Each respective plan shall be for a period of no more than five years and shall include the mission and goals of the school or school system to

improve student, school or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the department and other education agencies to improve student, school or school system performance and progress to meet the annual performance measure.

The department shall make available to all public schools through its website or the West Virginia Education Information System an electronic school strategic improvement plan boilerplate designed for use by all schools to develop an electronic school strategic improvement plan which incorporates all required aspects and satisfies all improvement plan requirements. ~~of the No Child Left Behind Act~~

(c) ~~High-quality education standards and efficiency standards.~~ — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and periodically review and update high-quality ~~education standards for student,~~ school and school system performance and processes in the following areas:

- (1) Curriculum;
- (2) Digital literacy;
- ~~(2)~~(3) Workplace readiness skills;
- ~~(3)~~(4) Finance;
- ~~(4)~~(5) Transportation;
- ~~(5)~~(6) Special education;

~~(6)~~(7) Facilities;

~~(7)~~(8) Administrative practices;

~~(8)~~(9) Training of county board members and administrators;

~~(9)~~(10) Personnel qualifications;

~~(10)~~(11) Professional development and evaluation;

~~(11)~~(12) Student performance, progress and attendance;

~~(12)~~(13) Professional personnel, including principals and central office administrators, and service personnel attendance;

~~(13)~~(14) School and school system performance and progress;

~~(14)~~(15) A code of conduct for students and employees; and

~~(15)~~(16) Indicators of efficiency. ~~and~~

~~(16) Any other areas determined by the state board.~~

(d) West Virginia Academic Standards.

(1) For purposes of this subsection, ‘academic standards’ are concise, written descriptions of what students are expected to know and be able to do at a specific stage of their education. Academic standards describe what students should have learned by the end of a course, grade level, or grade span.

(2) Legislative authority —

Sections one and two, article twelve of the Constitution of the State of West Virginia impose a duty upon the Legislature to provide, by general law, for a thorough and efficient system of free schools and the ability to impose ‘duties as may be prescribed by law’ on the West Virginia Board of Education.

(3)(A) Effective July 1, 2016, the State Board of Education is prohibited from implementing Common Core academic standards.

(B) Effective July 1, 2016, the State Board of Education shall adopt and implement the following academic standards for public schools:

(i) For academic standards for mathematics, in grades K-12, the board shall adopt and implement the Mathematics Content Standards for California Public Schools, adopted by the California State Board of Education in December, 1997, and the Mathematics Framework for California Public Schools, adopted by the California State Board of Education in March, 2005.

(ii) For academic standards in English Language Arts, the board shall adopt and implement the Massachusetts Curriculum Frameworks, implemented by the Massachusetts Department of Elementary and Secondary Education as the mandatory curriculum frameworks for English language arts in the year 2001, and any associated educational frameworks or supplementation: *Provided*, That any English Language Arts standard related to authors or literary works from the State of Massachusetts may be substituted with appropriate authors or literary works from the State of West Virginia.

(C) The academic standards developed pursuant to this section shall remain in place for a minimum of five academic years after the date of implementation.

(D) Effective immediately, any proposed changes to academic content standards for public schools shall comply with section two, article two-h, chapter eighteen of the code, which, in part, requires a sixty day written comment period and at least four public hearings in various locations in the state.

(4) The state board shall withdraw from the Memorandum of Agreement entered into with the Council of Chief State School Officers and The National Governors Association for Best Practices which required the state board to agree that Common Core represents eighty-five percent of West Virginia's standards in English Language Arts and Mathematics and withdraw as a governing state in the Smarter Balanced Assessment Consortium;

~~(d)~~(e) *Comprehensive statewide student assessment program.* — The state board shall establish a comprehensive statewide student assessment program to assess student performance and progress in grades three through twelve. The assessment program is subject to the following:

(1) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student assessment program;

(2) Prior to the 2014-2015 school year, the state board shall align the comprehensive statewide student assessment for all grade levels in which the test is given with the college-readiness standards adopted pursuant to section thirty-nine, article two of this chapter or develop other aligned tests to be required at each grade level so that progress toward college readiness in English/language arts and math can be measured.

(3) The state board may require that student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments, which are approved by the state board and provided by future vendors;

(1) Effective July 1, 2016, the Smarter Balanced Assessment or any other assessment based on the Common Core standards may not be used in West Virginia public schools.

(2) Beginning on July 1, 2016, the State Board of Education shall establish a Student Assessment Development Committee to develop and select appropriate statewide assessments to measure student progress and college and career-readiness, at each grade level from grades 3 through twelve, in the following subjects:

(A) English Language Arts; and (B) Mathematics.

(3) The committee will be comprised of the following members, who shall be appointed by the county school boards:

(A) One representative, who is an academic content specialist, from each four-year public institution of higher education in this state.

(B) One educator from each public school district in this state. Each teacher serving on the committee will have the following qualifications:

(i) The teacher must currently hold a classroom teaching position; and

(ii) The teacher must have at least ten years of experience.

(C) Two teachers from the five school districts in the state with the largest student population. Each teacher serving on the committee as a representative from the largest school districts must have the following qualifications:

(i) The teacher must currently hold a classroom teaching position; and

(ii) The teacher must have at least ten years of experience.

(4) Beginning prior to the 2016-2017 school year, the committee shall review and approve a summative assessment system to assess student academic progress in grades three, four and five.

(5) Beginning in school year 2016-2017, for federal and state accountability purposes, the committee shall develop a summative assessment system for administration to students in grades six through ten that assesses students in English, reading, writing, and mathematics. The assessment shall be administered to all public school students in grades six through ten and early high school grades nine and ten, to include those students as required by the federal Individuals with Disabilities Education Act and by Title I of the Elementary and Secondary Education Act. The summative assessment system must meet the following requirements:

(A) The assessment system must document student progress toward national college and career readiness benchmarks derived from empirical research and state standards;

(B) The assessment system must be capable of measuring individual student performance in English, reading, writing, and math;

(C) The assessment system must be available in paper-and-pencil and computer-based (by 2016-2017) formats; and

(D) The assessment system must be a predictive measure of student progress toward a national college readiness assessment used by higher education institutions for admissions purposes.

(6) Beginning with the school year 2016-2017, the committee shall review and approve a college readiness assessment to be administered to all students in the eleventh grade for the first time in school year 2016-2017 and subsequent years. The eleventh grade college readiness assessment shall be administered at least once to each eleventh grade student and shall meet the following requirements:

(A) The assessment must be a standardized, curriculum-based, achievement college entrance examination;

(B) The assessment must test student readiness for first-year, credit-bearing coursework in postsecondary education;

(C) The assessment must test in the areas of English, reading, writing, and mathematics;

(D) The assessment must have content area benchmarks for measuring student achievement;

(E) The assessment must be administered throughout the United States; and

(F) The assessment must be relied upon by institutions of higher education for admissions.

(6) Beginning with the school year 2016-2017, the committee shall review and approve career readiness assessments and assessment based credentials that measure and document foundational workplace skills. The assessments shall be administered to all public secondary school students in grades eleven or twelve for the first time in school year 2016-2017 and subsequent years. The assessment-based credential shall be available to any student that achieves required level on the required assessments. The assessments shall meet the following requirements:

(A) The assessments must be a standardized, criterion-referenced, measure of broadly relevant foundational workplace skills;

(B) The assessments must test and document student readiness for a wide range of jobs;

(C) The assessments must measure skills in all or any of the following areas:

(i) Applied mathematics;

(ii) Locating information; or,

(iii) Reading for information.

(D) The assessments must align with research-based skill requirement profiles for specific industries and occupations;

(E) The assessments must lead to a nationally recognized work readiness certificate for students that meet the minimum proficiency requirements on the component assessments; and

(F) The assessments must be available in paper-and-pencil and computer-based formats.

(6) The state board or committee may not acquire or implement any assessment instrument or instruments developed to specifically

align with the Common Core State Standards including Smarter Balanced Assessment or Partnership for Assessment of Readiness for College and Careers (PARCC).

(7) For any online assessment, the state board shall provide online assessment preparation to ensure that students have the requisite digital literacy skills necessary to be successful on the assessment.

(8) The state board shall develop a plan and make recommendations regarding end of course assessments and student accountability measures and submit its findings to the Legislative Oversight Commission on Education and Accountability by December 31, 2016: *Provided*, That nothing in this section gives the state board the authority to promulgate rules regarding the content of academic standards or assessments.

(9) The state board shall develop a policy which outlines accountability measures for students taking the comprehensive statewide assessment. Notwithstanding any other provision of law, a parent's or guardian's written request to school officials to excuse his or her child from any or all parts of the assessments administered pursuant to this subsection shall be granted: *Provided*, That no student whose parent has opted his or her child out of the assessment shall be disciplined or punished or receive a grade reduction.

(10) Any summative assessment approved by the committee shall take no more than two percent of a student's instructional time.

(11) A student may not be required to complete a greater number of assessments than is required by the Every Student Succeeds Act.

~~(4)~~ (14) The state board may require that student proficiencies be measured through the West Virginia writing assessment at any grade levels determined by the state board to be appropriate; and

~~(6)~~ (15) The state board may provide through the statewide assessment program policy other optional testing or assessment instruments applicable to grade levels kindergarten through eight and

grade eleven which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments.

~~(e)~~ (f) *State annual performance measures for school and school system accreditation.* —

The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual performance measures for state accreditation of schools and school systems. The state board also may establish performance incentives for schools and school systems as part of the state accreditation system. On or before December 1, 2013, the state board shall report to the Governor and to the Legislative Oversight Commission on Education Accountability the proposed rule for establishing the measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and to the Legislative Oversight Commission on Education Accountability on the impact and effectiveness of the accreditation system. The rule for school and school system accreditation proposed by the board may include, but is not limited to, the following measures:

(1) Student proficiency in English and language arts, math, science and other subjects determined by the board;

(2) Graduation and attendance rate;

(3) Students taking and passing AP tests;

(4) Students completing a career and technical education class;

(5) Closing achievement gaps within subgroups of a school's student population; and

(6) Students scoring at or above average attainment on SAT or ACT tests.

~~(f)~~(g) *Indicators of efficiency.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt by rule and periodically review and update indicators of efficiency for use by the appropriate divisions within the department to ensure efficient management and use of resources in the public schools in the following areas:

(1) Curriculum delivery including, but not limited to, the use of distance learning;

(2) Transportation;

(3) Facilities;

(4) Administrative practices;

(5) Personnel;

(6) Use of regional educational service agency programs and services, including programs and services that may be established by their assigned regional educational service agency or other regional services that may be initiated between and among participating county boards; and

(7) Any other indicators as determined by the state board.

~~(g)~~(h) *Assessment and accountability of school and school system performance and processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall establish by rule a system of education performance audits which measures the quality of education and the preparation of students based on the annual measures of student, school and school system performance and progress. The system of education performance audits shall provide information to the state board, the Legislature and the Governor, upon which they may determine whether a thorough and efficient system of schools is being provided. The system of education performance audits shall include:

(1) The assessment of student, school and school system performance and progress based on the annual measures established pursuant to subsection ~~(e)~~ (f) of this section;

(2) The evaluation of records, reports and other information collected by the Office of Education Performance Audits upon which the quality of education and compliance with statutes, policies and standards may be determined;

(3) The review of school and school system electronic strategic improvement plans; and

(4) The on-site review of the processes in place in schools and school systems to enable school and school system performance and progress and compliance with the standards.

~~(h)~~(i) *Uses of school and school system assessment information.* — The state board shall use information from the system of education performance audits to assist it in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following:

(1) Determining school accreditation and school system approval status;

(2) Holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and

(3) Targeting additional resources when necessary to improve performance and progress.

The state board shall make accreditation information available to the Legislature, the Governor, the general public and to any individual who requests the information, subject to the provisions of any act or rule restricting the release of information.

(j) *Early detection and intervention programs.* — Based on the assessment of student, school and school system performance and progress, the state board shall establish early detection and intervention programs using the available resources of the Department of Education, the regional educational service agencies, the Center for Professional Development and the Principals Academy, or other resources as appropriate, to assist underachieving schools and school systems to improve performance before conditions become so grave as to warrant more substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff development, providing monetary, staffing and other resources where appropriate.

(k) *Office of Education Performance Audits.* —

(1) To assist the state board in the operation of a system of education performance audits, the state board shall establish an Office of Education Performance Audits consistent with the provisions of this section. The Office of Education Performance Audits shall be operated under the direction of the state board independently of the functions and supervision of the state Department of Education and state superintendent. The Office of Education Performance Audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section.

(2) The office shall be headed by a director who shall be appointed by the state board and who serves at the will and pleasure of the state board. The annual salary of the director shall be set by the state board and may not exceed eighty percent of the salary of the state superintendent of Schools.

(3) The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by law and by the state board. Employees of the state Department of Education who are transferred to the Office of Education Performance Audits shall retain their benefits and seniority status with the Department of Education.

(4) Under the direction of the state board, the Office of Education Performance Audits shall receive from the West Virginia education information system staff research and analysis data on the performance and progress of students, schools and school systems, and shall receive assistance, as determined by the state board, from staff at the state Department of Education, the regional education service agencies, the Center for Professional Development, the Principals Academy and the School Building Authority to carry out the duties assigned to the office.

(5) In addition to other duties which may be assigned to it by the state board or by statute, the Office of Education Performance Audits also shall:

(A) Assure that all statewide assessments of student performance used as annual performance measures are secure as required in section one-a of this article;

(B) Administer all accountability measures as assigned by the state board, including, but not limited to, the following:

(i) Processes for the accreditation of schools and the approval of school systems; and

(ii) Recommendations to the state board on appropriate action, including, but not limited to, accreditation and approval action;

(C) Determine, in conjunction with the assessment and accountability processes, what capacity may be needed by schools and school systems to meet the standards established by the state board and recommend to the state board plans to establish those needed capacities;

(D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the state board, including the identification of trends and the need for continuing improvements in education, and report those

deficiencies and trends to the state board; (E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the state board and make recommendations to the state board, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the county boards;

(F) Identify, in conjunction with the assessment and accountability processes, school systems and best practices that improve student, school and school system performance and communicate those to the state board for promoting the use of best practices. The state board shall provide information on best practices to county school systems; and

(G) Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with applicable laws, policies and process standards as considered appropriate and approved by the state board, which may include, but is not limited to, the following:

(i) The use of a policy for the evaluation of all school personnel that meets the requirements of sections twelve and twelve-a, article two, chapter eighteen-a of this code;

(ii) The participation of students in appropriate physical assessments as determined by the state board, which assessment may not be used as a part of the assessment and accountability system;

(iii) The appropriate licensure of school personnel; and

(iv) The appropriate provision of multicultural activities.

Information contained in the reporting formats is subject to examination during an on-site review to determine compliance with laws, policies and standards. Intentional and grossly negligent

reporting of false information are grounds for dismissal of any employee.

~~(k)~~(1) *On-site reviews.* —

(1) The system of education performance audits shall include on-site reviews of schools and school systems which shall be conducted only at the specific direction of the state board upon its determination that circumstances exist that warrant an on-site review. Any discussion by the state board of schools to be subject to an on-site review or dates for which on-site reviews will be conducted may be held in executive session and is not subject to the provisions of article nine-a, chapter six of this code relating to open governmental proceedings. An on-site review shall be conducted by the Office of Education Performance Audits of a school or school system for the purpose of making recommendations to the school and school system, as appropriate, and to the state board on such measures as it considers necessary. The investigation may include, but is not limited to, the following:

(A) Verifying data reported by the school or county board;

(B) Examining compliance with the laws and policies affecting student, school and school system performance and progress;

(C) Evaluating the effectiveness and implementation status of school and school system electronic strategic improvement plans;

(D) Investigating official complaints submitted to the state board that allege serious impairments in the quality of education in schools or school systems;

(E) Investigating official complaints submitted to the state board that allege that a school or county board is in violation of policies or laws under which schools and county boards operate; and

(F) Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies,

including, but not limited to, the State Fire Marshal, the Health Department, the School Building Authority and the responsible divisions within the Department of Education, and whether noted deficiencies have been or are in the process of being corrected.

(2) The Director of the Office of Education Performance Audits shall notify the county superintendent of schools five school days prior to commencing an on-site review of the county school system and shall notify both the county superintendent and the principal five school days before commencing an on-site review of an individual school: *Provided*, That the state board may direct the Office of Education Performance Audits to conduct an unannounced on-site review of a school or school system if the state board believes circumstances warrant an unannounced on-site review.

(3) The Office of Education Performance Audits shall conduct on-site reviews which are limited in scope to specific areas in which performance and progress are persistently below standard as determined by the state board unless specifically directed by the state board to conduct a review which covers additional areas.

(4) The Office of Education Performance Audits shall reimburse a county board for the costs of substitutes required to replace county board employees who serve on a review team.

(5) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and curriculum team of the school and the superintendent shall be provided the opportunity to be present. The purpose of the exit conference is to review the initial findings of the on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between the reviewers and the school or school system to promote a better understanding of the findings.

(6) The Office of Education Performance Audits shall report the findings of an on-site review to the county superintendent and the principals whose schools were reviewed within thirty days following the conclusion of the on-site review. The Office of Education Performance Audits shall report the findings of the on-site review to the state board within forty-five days after the conclusion of the on-site review. A school or county that believes one or more findings of a review are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of education in the school or county or address issues unrelated to the health, safety and welfare of students and the quality of education, may appeal to the state board for removal of the findings. The state board shall establish a process for it to receive, review and act upon the appeals. The state board shall report to the Legislative Oversight Commission on Education Accountability during its July interim meetings, or as soon thereafter as practical, on each appeal during the preceding school year.

(7) The Legislature finds that the accountability and oversight of some activities and programmatic areas in the public schools are controlled through other mechanisms and agencies and that additional accountability and oversight may be unnecessary, counterproductive and impair necessary resources for teaching and learning. Therefore, the Office of Education Performance Audits may rely on other agencies and mechanisms in its review of schools and school systems.

(†) (m) *School accreditation.* —

(1) The state board shall establish levels of accreditation to be assigned to schools. The establishment of levels of accreditation and the levels shall be subject to the following:

(A) The levels will be designed to demonstrate school performance in all the areas outlined in this section and also those established by the state board;

(B) The state board shall promulgate legislative rules in accordance with the provisions of article three-b, chapter twenty-nine-a

of this code to establish the performance and standards required for a school to be assigned a particular level of accreditation; and

(C) The state board will establish the levels of accreditation in such a manner as to minimize the number of systems of school recognition, both state and federal, that are employed to recognize and accredit schools.

(2) The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school a level of accreditation as designated and determined by the state board.

(3) The state board, in its exercise of general supervision of the schools and school systems of West Virginia, may exercise any or all of the following powers and actions:

(A) To require a school to revise its electronic strategic plan;

(B) To define extraordinary circumstances under which the state board may intervene directly or indirectly in the operation of a school;

(C) To appoint monitors to work with the principal and staff of a school where extraordinary circumstances are found to exist, and to appoint monitors to assist the school principal after intervention in the operation of a school is completed;

(D) To direct a county board to target resources to assist a school where extraordinary circumstances are found to exist;

(E) To intervene directly in the operation of a school and declare the position of principal vacant and assign a principal for the school who will serve at the will and pleasure of the state board. If the principal who was removed elects not to remain an employee of the county board, then the principal assigned by the state board shall be paid by the county board. If the principal who was removed elects to

remain an employee of the county board, then the following procedure applies:

(i) The principal assigned by the state board shall be paid by the state board until the next school term, at which time the principal assigned by the state board shall be paid by the county board;

(ii) The principal who was removed is eligible for all positions in the county, including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with section seven, article two, chapter eighteen-a of this code, or by being placed on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of this code; and

(iii) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term; and

(F) Other powers and actions the state board determines necessary to fulfill its duties of general supervision of the schools and school systems of West Virginia.

(4) The county board may take no action nor refuse any action if the effect would be to impair further the school in which the state board has intervened.

~~(m)~~(n) *School system approval.* — The state board annually shall review the information submitted for each school system from the system of education performance audits and issue one of the following approval levels to each county board: Full approval, temporary approval, conditional approval or nonapproval.

(1) Full approval shall be given to a county board whose schools have all been given full, temporary or conditional accreditation status and which does not have any deficiencies which would endanger

student health or safety or other extraordinary circumstances as defined by the state board. A fully approved school system in which other deficiencies are discovered shall remain on full accreditation status for the remainder of the approval period and shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

(2) Temporary approval shall be given to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its electronic county strategic improvement plan in accordance with subsection (b) of this section to increase the performance and progress of the school system to a full approval status level. The revised plan shall be submitted to the state board for approval.

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose electronic county strategic improvement plan meets the following criteria:

(A) The plan has been revised in accordance with subsection (b) of this section;

(B) The plan has been approved by the state board; and

(C) The county board is meeting the objectives and time line specified in the revised plan.

(4) Nonapproval status shall be given to a county board which fails to submit and gain approval for its electronic county strategic improvement plan or revised electronic county strategic improvement plan within a reasonable time period as defined by the state board or which fails to meet the objectives and time line of its revised electronic county strategic improvement plan or fails to achieve full approval by the date specified in the revised plan.

(A) The state board shall establish and adopt additional standards to identify school systems in which the program may be nonapproved and the state board may issue nonapproval status whenever extraordinary circumstances exist as defined by the state board.

(B) Whenever a county board has more than a casual deficit, as defined in section one, article one of this chapter, the county board shall submit a plan to the state board specifying the county board's strategy for eliminating the casual deficit. The state board either shall approve or reject the plan. If the plan is rejected, the state board shall communicate to the county board the reason or reasons for the rejection of the plan. The county board may resubmit the plan any number of times. However, any county board that fails to submit a plan and gain approval for the plan from the state board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which, in the opinion of the state board, fails to comply with an approved plan may be designated as having nonapproval status.

(C) Whenever nonapproval status is given to a school system, the state board shall declare a state of emergency in the school system and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency. When the state board approves the recommendations, they shall be communicated to the county board. If progress in correcting the emergency, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following:

(i) Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the

establishment of instructional programs and rules and any other areas designated by the state board by rule, which may include delegating decision-making authority regarding these matters to the state superintendent;

(ii) Declaring that the office of the county superintendent is vacant;

(iii) Declaring that the positions of personnel who serve at the will and pleasure of the county superintendent as provided in section one, article two, chapter eighteen-a of this code, are vacant, subject to application and reemployment;

(iv) Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions;

(v) Functioning in lieu of the county board of education in a transfer, sale, purchase or other transaction regarding real property; and

(vi) Taking any direct action necessary to correct the emergency including, but not limited to, the following:

(I) Delegating to the state superintendent the authority to replace administrators and principals in low performing schools and to transfer them into alternate professional positions within the county at his or her discretion; and

(II) Delegating to the state superintendent the authority to fill positions of administrators and principals with individuals determined by the state superintendent to be the most qualified for the positions. Any authority related to intervention in the operation of a county board granted under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this code.

~~(m)~~(o) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school system with all the powers, duties and responsibilities contained in subsection ~~(m)~~(n) of this section, if the state board finds the following:

(1) That the conditions precedent to intervention exist as provided in this section; and that delaying intervention for any period of time would not be in the best interests of the students of the county school system; or

(2) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

~~(o)~~(p) *Capacity.* — The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of electronic school and school system strategic improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school and school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system electronic strategic improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall take one or more of the following actions:

(1) Work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor;

(2) Recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the state board shall include, but is not limited to, the following methods:

(A) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

(B) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system and requiring the school or school system to work collaboratively with the West Virginia Department of Education State System of Support to correct the deficiencies;

(C) Determining the areas of strength that appear to have contributed to exceptional student, school and school system performance and progress and promoting their emulation throughout the system;

(D) Requesting technical assistance from the School Building Authority in assessing or designing comprehensive educational facilities plans;

(E) Recommending priority funding from the School Building Authority based on identified needs;

(F) Requesting special staff development programs from the Center for Professional Development, the Principals Academy, higher education, regional educational service agencies and county boards based on identified needs;

(G) Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;

(H) Directing county boards to target their funds strategically toward alleviating deficiencies;

(I) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

(J) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

(K) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

(p) *Building leadership capacity.* — To help build the governance and leadership capacity of a county board during an intervention in the operation of its school system by the state board, and to help assure sustained success following return of control to the county board, the state board shall require the county board to establish goals and action plans, subject to approval of the state board, to improve performance sufficiently to end the intervention within a period of not more than five years. The state superintendent shall maintain oversight and provide assistance and feedback to the county board on development and implementation of the goals and action plans. At a minimum, the goals and action plans shall include:

(A) An analysis of the training and development activities needed by the county board and leadership of the school system and schools for effective governance and school improvement;

(B) Support for the training and development activities identified which may include those made available through the state superintendent, regional education service agencies, Center for Professional Development, West Virginia School Board Association, Office of Education Performance Audits, West Virginia Education

Information System and other sources identified in the goals and action plans. Attendance at these activities included in the goals and action plans is mandatory as specified in the goals and action plans; and

(C) Active involvement by the county board in the improvement process, working in tandem with the county superintendent to gather, analyze and interpret data, write time-specific goals to correct deficiencies, prepare and implement action plans and allocate or request from the State Board of Education the resources, including board development training and coaching, necessary to achieve approved goals and action plans and sustain system and school improvement.

At least once each year during the period of intervention, the Office of Education Performance Audits shall assess the readiness of the county board to accept the return of control of the system or school from the state board and sustain the improvements, and shall make a report and recommendations to the state board supported by documented evidence of the progress made on the goals and action plans. The state board may end the intervention or return any portion of control of the operations of the school system or school that was previously removed at its sole determination. If the state board determines at the fifth annual assessment that the county board is still not ready to accept return of control by the state board and sustain the improvements, the state board shall hold a public hearing in the affected county at which the attendance by all members of the county board is requested so that the reasons for continued intervention and the concerns of the citizens of the county may be heard. The state board may continue the intervention only after it holds the public hearing and may require revision of the goals and action plans.

Following the termination of an intervention in the operation of a school system and return of full control by the state board, the support for governance education and development shall continue as needed for up to three years. If at any time within this three years, the state board determines that intervention in the operation of the school system is

again necessary, the state board shall again hold a public hearing in the affected county so that the reasons for the intervention and the concerns of the citizens of the county may be heard.”

Delegate Moyer was addressing the House and Delegate Moffatt arose to a point of order relating to the content of Delegate Moyer’s remarks.

To this point, the Speaker ruled that the Gentleman had not transgressed the Rules of the House.

Delegate Campbell was addressing the House and Delegate Frich arose to a point of order related to House Rule 137a. To this point, the Speaker ruled the Gentlelady had not transgressed the Rules of the House.

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

The yeas and nays having been ordered, they were taken (**Roll No. 201**), and there were, including 2 paired—yeas 35, nays 62, absent and not voting 3, with the paired, absent and not voting and paired being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: J. Nelson Nay: Skinner

Yeas: Atkinson, Azinger, Blair, Border, Butler, Faircloth, Fast, Fluharty, Folk, Frich, Gearheart, Hamrick, Householder, Howell, Ihle, Kurcaba, Lane, McGeehan, Miller, Moffatt, Overington, R. Phillips, Reynolds, Rohrbach, R. Smith, Sobonya, Storch, Summers, Trecost, Upson, Waxman, Weld, B. White and Zatezalo.

Absent and Not Voting: Ferro, Kelly and Morgan.

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

Delegate Butler moved to amend the bill on page five, section five, line eighty-eight, after the word “schools” and the quotation mark, by inserting “to prescribe by law the duties of the state board of education in the general supervision of free public schools, to prescribe by law the powers and duties of the superintendent of education and to”.

On page five, section five, line ninety-nine, after the word “standards” and the period, by inserting a new subdivision as follows:

“The Legislature hereby establishes an Academic Standards Evaluation Panel. The Senate President shall appoint two subject matter experts, one in mathematics and one in English Language Arts, and the Speaker of the House shall appoint two subject matter experts, one in mathematics and one in English Language Arts. The Committee on Academic Standards shall:

(A) Using the West Virginia College – and – Career – Readiness Standards for English Language Arts and Mathematics as a framework, review and revise the standards, including additions, deletions, and edits based upon empirical research and data to ensure grade-level alignment to the standards of states with a proven track record of consistent high-performing student achievement in English Language Arts on the National Assessment of Educational Progress and in Mathematics, on both the National Assessment of Educational Progress and Trends in Math and Science Study international Assessment.

(B) Remove Common Core strategies that require instructional methods.

(C) The Panel recommended revisions shall be completed by October 1, 2016.”

And,

On page five, section five, line ninety-nine, after the word “standards” and the period, by inserting a new subsection to read as follows:

“The state board of education shall adopt and implement the standards in a manner that minimizes classroom interruptions on or before the 2017-2018 school year.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 202**), and there were, including 2 paired—yeas 54, nays 42, absent and not voting 4, with the paired 2, nays, absent and not voting and paired being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: J. Nelson Nay: Skinner

Nays: Ambler, Bates, Blackwell, Boggs, Byrd, Campbell, Canterbury, Caputo, Cooper, Cowles, Duke, Eldridge, A. Evans, D. Evans, Fleischauer, Fluharty, Guthrie, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Romine, Rowan, Rowe, Shaffer, P. Smith, Sponaule, Trecost and P. White.

Absent and Not Voting: Ferro, Moore, Morgan and Phillips.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

On motion of Delegate Butler, the bill was amended on page six, section five, line one hundred five, after the word “board”, by striking out the words “after the effective date of this subsection”.

On motion of Delegate Hamrick, the bill was amended on page nine, section five, line two hundred, after the word “be”, by striking out the rest of the sentence and inserting in lieu thereof the following:

“disciplined, punished, or receive a grade reduction: *Provided further*, That no student shall be refused a Promise Scholarship, placed in remedial courses, or refused admission to a West Virginia institution of higher education, based upon the choice of the parent to opt the student out.”

On motion of Delegate Hamrick, the bill was then amended on page seven, section five, line one hundred forty-nine, after the word “writing”, by inserting the words “science” and a comma.

And,

On page eight, section five, line one hundred sixty-two, after the word “writing”, by inserting the word “science” and a comma.

On motion of Delegate Waxman, the bill was amended on page seven, section five, line one hundred thirty-nine, after the word “and”, by inserting the words “once in”.

And,

On page seven, section five, line one hundred forty-one, after the word “and”, by striking out the words “early high school grades nine and ten” and inserting in lieu thereof the words “once in high school”.

Delegate Waxman moved to amend the bill on page nine, section five, line two hundred one, after the word “than”, by striking out the word “two” and inserting in lieu thereof the word “one”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 203**), and there were, including 2 paired—yeas 34, nays 63, absent and

not voting 3, paired 2, with the yeas and absent and not voting and paired being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: J. Nelson Nay: Perdue

Yeas: Atkinson, Azinger, Blair, Butler, Cadle, Deem, Faircloth, Fast, Folk, Frich, Gearheart, Hamrick, Householder, Howell, Ihle, Kessinger, Kurcaba, Lane, McCuskey, McGeehan, Miller, Moffatt, O'Neal, Overington, Phillips, R. Smith, Sobonya, Summers, Trecost, Upson, Waxman, B. White and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Ferro, Morgan and Sponaugle.

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

An amendment to the bill, recommended by Delegate Moffatt, was reported by the Clerk.

Whereupon,

Unanimous consent having been obtained the amendment was reformed as follows:

“The state board shall not implement the ‘Next Generation Content Standards and Objectives for Science in West Virginia Schools’ that are to become effective July 1, 2016 and leave in place current science standards through June 30, 2017.”

Delegate Deem was addressing the House and Delegate Skinner arose to a point of order relating to the content of Delegate Deem's remarks.

To this point, the Speaker asked the Gentleman to confine his remarks to the merits of the bill.

Delegate Caputo moved that the amendment be tabled.

On this motion, Delegate Caputo demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 204**), and there were—yeas 15, nays 80, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Bates, Caputo, Fleischauer, Guthrie, Hartman, Hornbuckle, Longstreth, Miley, Moore, Perdue, Pushkin, Rodighiero, Shaffer, Sponaule and P. White.

Absent and Not Voting: Duke, Ferro, Morgan, J. Nelson and Phillips.

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

Delegate Marcum moved the previous question then subsequently withdrew the motion.

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

The yeas and nays having been ordered, they were taken (**Roll No. 205**), and there were, including 2 paired — yeas 57, nays 40, absent and not voting 3, with the paired and nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: J. Nelson Nay: Skinner

Nays: Ambler, Bates, Boggs, Byrd, Campbell, Canterbury, Caputo, Cooper, D. Evans, Flanigan, Fleischauer, Fluharty, Guthrie, Hanshaw,

Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Moye, E. Nelson, Perdue, Perry, Pethtel, Pushkin, Rodighiero, Rowan, Rowe, Shaffer, Sponaugle, Statler, Wagner, Walters, Westfall and P. White.

Absent and Not Voting: Duke, Ferro and Morgan.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

On motion of Delegate Kurcaba, the bill was amended on page five, section five, beginning with line ninety-four, after the number three and the parenthesis, by striking out the paragraph in its entirety and inserting in lieu thereof:

“While recognizing that on December 15, 2015, the state board adopted what it represented were academic standards no longer aligned with Common Core State Standards and renamed them ‘West Virginia College – and – Career – Readiness Standards for English Language Arts (Policy 2520.1A)’ and ‘West Virginia College – and – Career – Readiness Standards for Mathematics (Policy 2520.1B)’.”

On motion of Delegate Ambler, the bill was amended on page six, section five, line one hundred nine, by striking out subsection (B) in its entirety and relettering the remaining subsections.

There being no further amendments, the bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4201, Increasing the criminal penalties for participating in an animal fighting venture; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Perdue, the bill was amended on page two, section nineteen-a, line four, following the word “animal”, by replacing the period with a colon, and adding the following proviso:

“Provided, however, That this does not include poultry owners who raise their fowl for breeding for the purpose of production of free range poultry, egg production or exhibition.” The bill was then ordered to engrossment and third reading.

H. B. 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and to expand the prescriptive authority that may be granted to advanced practice registered nurses; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page one, section sixteen-b, line eight, after the word “benefits” and the period, by inserting the following:

“All employees shall become will and pleasure employees in accordance with section four, article six, chapter twenty-nine of the Code of West Virginia, and are exempt from coverage by classified service.”

The bill was then ordered to engrossment and third reading.

H. B. 4358, Relating to out of state physicians and surgeons traveling with sports teams within this state; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section eight-a, line one, after the word “practice”, by striking out the word “or”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4433, Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4487, Relating to state retirement systems; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4558, Relating to victim notification and designation of additional individuals to receive notice of an offender's release; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4607, Adding violations of law upon which a public servant's retirement plan may be forfeited; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4636, 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 engrossment and third reading.

H. B. 4652, Relating to the creation of an intermediate contractor's license; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section three, line eight, after the words “undertaking is”, by striking out the dollar amount “\$2,500” and inserting in lieu thereof the dollar amount “5,000”.

And,

On page two, section three, line thirty-seven after the words “undertaking is”, by striking out “\$10,000” and inserting in lieu thereof “\$15,000”.

The bill was then ordered to engrossment and third reading.

H. B. 4706, Relating to county board regional meetings; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

First Reading

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

Com. Sub. for S. B. 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals,

Com. Sub. for H. B. 2110, Relating generally to the tax treatment of manufacturing entities,

Com. Sub. for H. B. 2205, Creating the crime of prohibited sexual contact by a psychotherapist,

Com. Sub. for H. B. 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas,

H. B. 2960, Permitting county boards of education to develop emergency preparedness drills in schools,

Com. Sub. for H. B. 4237, Supporting and Strengthening Families Act,

H. B. 4299, Increasing the amount volunteer fire companies or paid fire departments may charge for reimbursement,

H. B. 4321, Relating to tax credits for apprenticeship training in construction trades,

Com. Sub. for H. B. 4330, Relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake,

Com. Sub. for H. B. 4339, Relating to wildlife resources,

Com. Sub. for H. B. 4380, Adding the spouse of an indigent person as a possible individual who may be liable for the funeral service expenses,

H. B. 4411, Relating to penalty for illegally taking native brook trout,

H. B. 4461, Relating to School Building Authority School Major Improvement Fund eligibility,

Com. Sub. for H. B. 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County,

Com. Sub. for H. B. 4587, Relating to violations associated with absent voters' ballots,

H. B. 4658, Relating to the Board of Funeral Service Examiners,

H. B. 4725, Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications,

H. B. 4727, Relating to state plan amendments,

H. B. 4728, Relating to schedule three controlled substances,

H. B. 4730, Relating to computer science courses of instruction,

H. B. 4731, Relating to requiring comprehensive drug awareness and prevention program in all public schools,

H. B. 4732, Relating to performance metrics for the West Virginia Division of Highways,

And,

H. B. 4733, Relating to requiring the Commissioner of Highways to develop a statewide communications plan known as the Comprehensive Public Involvement Plan.

Conference Committee Report Availability

At 5:25 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 3019, Requiring official business and records of the state and its political subdivisions be conducted in English.

A message from the Senate, by

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

S. B. 94 - "A Bill to amend and reenact §17C-16-4 of the Code of West Virginia, 1931, as amended, relating to designating

Superintendent of the West Virginia State Police as current administrator and enforcer of motor vehicle inspection program”; which was referred to the Committee on Roads and Transportation then Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

S. B. 462, Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

A message from the Senate, by

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

S. B. 476 - “A Bill to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to driving restrictions in school zones; authorizing county boards of education to expand school zones to a road adjacent to school property by formal request; and requiring Division of Highways to expand school zones accordingly within thirty days of receiving the formal request”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

The message further announced that the President of the Senate had appointed as Conferees on the part of the Senate the following:

Senators Blair, Ferns and Snyder.

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

Committee Reports

The Speaker announced that the Committee Report for H. B. 4346 which was announced earlier was incorrect, and the Clerk then reported the corrected report, as follows:

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

Your Committee on the Judiciary has had under consideration:

H. B. 4346, Relating to bear hunting and offenses and penalties,

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

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

Your Committee on Finance has had under consideration:

H. B. 4352, Relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources,

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

Com. Sub. for H. B. 4352 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to the potential sale, renovation or leasing of certain state-owned health care facilities by the Secretary of the Department of Health and Human Resources; requiring the secretary to contract a consultant to submit a plan relating to the potential sale, renovation or lease of such facilities to the Governor and Joint

Committee on Government and Finance by November 30, 2016; identifying the minimum contents of said plan; exempting the hiring of the said consultant from certain purchasing requirements; requiring the secretary to update the Joint Committee on Government and Finance regarding the selection of the consultant; requiring the Director of the Division of Personnel to assist the secretary to create a strategy related to the employees of the facilities that are the subject of the plan; creating in the State Treasury a special revenue account to be known as the ‘Health Care Facilities Liquidation Fund’; requiring the secretary to prepare an accounting of all such assets, and providing that expenditures from the fund are not authorized from collections deposited in the fund but are to be made only in accordance with appropriation by the Legislature; and prohibiting the secretary from acting pursuant to the plan without enactment of legislation authorizing the same.”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2826, Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; “Sarah Nott’s Law”.

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

Com. Sub. for H. B. 2826 - “A Bill to amend and reenact §17-4-49 of the Code of West Virginia, 1931, as amended, relating to access from commercial, industrial or mercantile establishments; requiring the Commissioner of the Division of Highways when he or she deems appropriate, to either place no parking signs or clearly mark right-of-way areas with yellow paint with the words ‘no parking’ and

hash marks for points of access existing on or before July 1, 2016 for business, industrial or mercantile establishments where the driveway entrance or access is more than fifty feet wide and is along a road with a speed limit of more than forty-five miles per hour; requiring owners of points of access approved after July 1, 2016 to include no parking signs, markings and paint necessary to comply with appropriate safety requirements and with the approval of the commissioner; and designating this as ‘Sarah Nott’s Law’,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4502, Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses,

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

Com. Sub. for H. B. 4502 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-1-29, relating to reciprocity agreements with contiguous states and the District of Columbia; authorizing the governor to enter into and renew reciprocity agreements with the governors and other appropriate state governmental agencies from states that share contiguous borders with this state, including the District of Columbia, to establish regulations, licensing requirements and taxation for small businesses headquartered in contiguous states or the District of Columbia that conduct business in this state; providing the governor discretionary power to delegate such authority to the Attorney General or secretary of an executive branch department to negotiate and enter into such reciprocity agreements on behalf of the governor; requiring

any reciprocity agreement that impacts or affects taxation, either the receipt or payment thereof, to be approved by Legislative act; and defining terms,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4317, Limiting factors in parenting plans,

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

Com. Sub. for H. B. 4317 - “A Bill to amend and reenact §48-9-209 of the Code of West Virginia, 1931, as amended, relating to limiting factors in parenting plans; and changing language relating to parental activity of ‘making repeated fraudulent reports of domestic violence or child abuse’ to making ‘one or more’ such reports as a factor a court shall consider in imposing limits on a parenting plan in order to protect a child from harm,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act,

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

Com. Sub. for H. B. 4448 - “A Bill to amend and reenact §61-3C-14a of the Code of West Virginia, 1931, as amended, relating to violations of the West Virginia Computer Crime and Abuse Act; providing an exception to the prohibition against making contact with a person after being requested by the person to desist from contacting them; and providing that communications made by a lender or debt collector to a consumer that do not violate the West Virginia Consumer Credit and Protection Act are not a violation of the West Virginia Computer Crime and Abuse Act’s prohibition against making contact with a person after being requested by the person to desist from contacting them.”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4505, Allowing powerball winners to remain anonymous,

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

Com. Sub. for H. B. 4505 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to allowing powerball winners to remain anonymous; and providing for an exemption under the Freedom of Information Act for powerball winner information.”

With the recommendation that the committee substitute do pass.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Ferro.

Remarks of Members

Delegate Perry asked and obtained unanimous consent that all remarks on the passage of S. B. 419, Relating to termination of Workers' Compensation Debt Reduction Act, be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2977.

Delegate Guthrie noted to the Clerk that she was absent when the votes were taken on Roll Nos. 186 and 187, and that had she been present, she would have voted "Yea" thereon.

Delegate Sponaugle noted to the Clerk that he was absent when the vote were taken on Roll No. 193, and that had he been present, he would have voted "Nay" thereon.

At 5:35 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, February 26, 2016.

FRIDAY, FEBRUARY 26, 2016

FORTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, February 25, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred H. B. 4315, on Second Reading, Special Calendar, to the House Calendar, and S. B. 68 and H. B. 4728, on Second Reading Special Calendar, to the House Calendar.

Unanimous consent having been obtained, Delegate Kurcaba was added as a cosponsor of H. B. 4732 and H. B. 4733.

Unanimous consent having been obtained, Delegate Statler was added as a cosponsor of H. B. 4732.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

H. B. 2963, Expanding the definition of kidnapping,

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

Com. Sub. for H. B. 2963 — “A Bill to amend and reenact ‘61-2-14a of the Code of West Virginia, 1931, as amended, relating to criminal offense of kidnapping; making unlawful the taking or gaining custody of, confining or concealing another person by force or threat of force, or by duress, fraud, deceit, misrepresentation or enticement; and providing penalties,”

With the recommendation that the committee substitute do pass.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 47, U.S. Army SFC Jesse Muncy Memorial Bridge,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. C. R. 47) was referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 13, U.S. Army SPC 4 Everette R. Johnson Memorial Bridge,

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

Com. Sub. for H. C. R. 13 — “Requesting the Division of Highways to name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056), latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the ‘U.S. Army SP4 Everette R. Johnson Memorial Bridge’,”

And,

H. C. R. 54, Byron “Bray” Kelley Memorial Bridge,

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

Com. Sub. for H. C. R. 54 — “Requesting the Division of Highways to name Bridge Number 39-73/73-8.46 (39A143) (39.65892, -79.63833), locally known as Bruceton Mills Bridge, carrying County Route 73/73 over Big Sandy Creek in Bruceton Mills, Preston County, the ‘U.S. Army PFC Byron ‘Bray’ Kelley Memorial Bridge’,”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 13 and Com. Sub. for H. C. R. 54) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 34, U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge,

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

Com. Sub. for H. C. R. 34 — “Requesting the Division of Highways to name bridge number 06-25/11-0.01 (06A304) (38.35666, -82.12754) locally known as New Girl Scout Camp Bridge, carrying County Route 25/11 over Mud River in Cabell County, the ‘U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge’,”

H. C. R. 51, U.S. Army PFC Danny Mire Stoneking Memorial Bridge,

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

Com. Sub. for H. C. R. 51 — “Requesting the Division of Highways to name bridge number 52-64-2.07 (52A135) (39-63045, -80.47918), locally known as Smith Bridge, carrying County Route 64 over Long Drain in Wetzel County, the ‘U.S. Army PFC Danny Mire Stoneking Memorial Bridge’,”

H. C. R. 56, U.S. Army CPL Robert Eugene Jackson Memorial Bridge,

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

Com. Sub. for H. C. R. 56 — “Requesting the Division of Highways to name Bridge Number 31-77-1.15 (31A212) (39.53532, -79.97705), locally known as Booths Creek Bridge, carrying CR 77 over Booths Creek in Monongalia county, the ‘U.S. Army CPL Robert Eugene Jackson Memorial Bridge’,”

H. C. R. 57, U.S. Army PVT Leander Reel Memorial Bridge,

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

Com. Sub. for H. C. R. 57 — “Requesting the Division of Highways to name bridge number 12-220-10.31 (12A081) (38.98846,

-79.12465), locally known as Petersburg Bridge, carrying US 220 over the south branch of the Potomac River in Grant County, the ‘U.S. Army PVT Leander Reel Memorial Bridge’,”

H. C. R. 63, U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge,

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

Com. Sub. for H. C. R. 63 — “Requesting the Division of Highways to name bridge number 23-44-4.86 (23A105), (37.70670, -81.98848), (locally known as Crystal Block Concrete Bridge, carrying WV44 over Island Creek in Logan County, the ‘U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge’,”

H. C. R. 66, 1SG Carl J. Crabtree Memorial Road,

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

Com. Sub. for H. C. R. 66 — “Requesting the Division of Highways to name the Rossmore By-Pass starting at Rossmore and running to Monaville on Route 119/42, in Logan County, the ‘1SG Carl J. Crabtree Memorial Road’.”

And,

H. C. R. 72, Max G. Parkinson Memorial Bridge,

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

Com. Sub. for H. C. R. 72 — “Requesting the Division of Highways to name Bridge Number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge,

carrying County Route 13 over Tuscarora Creek in Berkeley County, be named the ‘Max G. Parkinson Memorial Bridge’;”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for H. C. R. 34, Com. Sub. for H. C. R. 51, Com. Sub. for H. C. R. 56, Com. Sub. for H. C. R. 57, Com. Sub. for H. C. R. 63, Com. Sub. for H. C. R. 66 and Com. Sub. for H. C. R. 72) were each referred to the Committee on Rules.

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 26th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4175), Relating generally to home schooling.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4577, Creating an additional penalty for use of a firearm in furtherance of a drug offense,

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

Com. Sub. for H. B. 4577 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating to use of a firearm during, in relation to, or in furtherance of a violation of certain offenses of the Uniform Controlled Substances Act; creating the felony offense of use or

possession of a firearm; providing penalties; clarifying that the offense is separate and distinct from other offenses; denying eligibility for sentencing alternatives; and clarifying the term ‘convicted’,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4576, Increasing the penalties for transporting controlled substances into the state except marihuana,

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

Com. Sub. for H. B. 4576 — “A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for transporting controlled substances into the state,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4575, Creating criminal offenses relating to money laundering,

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

Com. Sub. for H. B. 4575 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5 and §61-14-6, all

relating to laundering and concealment of proceeds from criminal activity; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for presumptions when law enforcement or persons acting at the direction of law enforcement are involved with proceeds of criminal activity; denying availability of certain defenses; providing for seizure and forfeiture of property or monetary instruments; clarifying conduct that constitutes separate offenses; and setting forth venue for offenses,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4240, Relating to the Uniform Controlled Substances Act,

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

Com. Sub. for H. B. 4240 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-406b, all relating to the Uniform Controlled Substances Act; offenses and penalties; providing mandatory minimum sentences for trafficking drugs into the state and for other drug offenses; increasing period of ineligibility for parole for certain violations of possession or distribution of controlled substances and establishing applicable conditions; increasing period of ineligibility for parole for transporting certain controlled substances into the state and establishing applicable conditions; prohibiting application of alternative sentences; and increasing the penalties for transporting controlled substances into the state,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4176, Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program,

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

Com. Sub. for H. B. 4176 — “A Bill to amend and reenact §62-15A-1, §62-15A-2 and §62-15A-3 of the Code of West Virginia, 1931, as amended, all relating to the addiction treatment pilot program; defining terms; permitting the Regional Jail and Correctional Facility Authority to participate in the pilot program; establishing criteria for participants; and including the Director of the Regional Jail and Correctional Facility Authority and the Secretary of the Department of Military Affairs and Public Safety in the list of recipients of the report required to be made by the Department of Health and Human Resources,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 2849, Creating the West Virginia Sentencing Commission,

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

Com. Sub. for H. B. 2849 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§61-14-1, §61-14-2, §61-14-3 and §61-14-4, all relating to creating the West Virginia Sentencing Commission; establishing composition and membership of commission; providing legislative findings and purpose; setting forth objectives for the commission to pursue; and providing powers and duties of the commission,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4578, Creating a criminal offense of conspiracy to violate the drug laws, And reports the same back with the recommendation that it do pass.

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

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

Com. Sub. for S. B. 597, Relating generally to Health Care Authority,

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

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

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

H. B. 4526, Establishing an advisory council on rare diseases,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4526) was referred to the Committee on Finance.

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

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

H. B. 4655, Prohibiting insurers, vision care plans or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4655) was referred to the Committee on Banking and Insurance.

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

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

H. B. 4183, Relating generally to reporting opioid overdoses,

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

Com. Sub. for H. B. 4183 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-4C-24; and to amend and reenact §60A-9-4, all relating generally to reporting opioid overdoses; requiring emergency medical service agencies and emergency medical service providers to report nonlethal opioid overdoses to the Board of Pharmacy; establishing that

the information reported be added to the West Virginia Controlled Substance Monitoring Program,”

And,

H. B. 4480, Addiction Treatment Act of 2016,

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

Com. Sub. for H. B. 4480 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-51-1 and §16-51-2, all relating to prescribing certain controlled substances; defining terms; limiting to whom certain drugs may be prescribed; requiring notification; requiring a physician to prescribe certain drugs; limiting the prescription of drugs containing buprenorphine; setting a titration procedure; providing exemption to the titration procedure; and requiring chart notations,”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on Finance has had under consideration:

H. B. 4644, Relating to deleting subsection (e) therein which provides the sheriff to pay into the State Treasury all jury costs,

And,

S. B. 558, Maintaining solvency of Unemployment Compensation Fund,

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

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

Your Committee on Finance has had under consideration:

H. B. 4659, Authorizing local health departments to bill health insurance plans for services,

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

Com. Sub. for H. B. 4659 — “A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended, relating to local health departments; and authorizing local health departments to bill for medical services without obtaining approval from the commissioner,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran,

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

Com. Sub. for H. B. 4507 — “A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §5-11-9a, all relating to granting preference in hiring to a veteran or disabled veteran; establishing that an employer granting preference in hiring a veteran or disabled veteran does not violate the state Human Rights Act under certain circumstances; providing that an employer may grant preference in hiring to a veteran or disabled veteran who has been honorably discharged from the United States Armed Services when the veteran or disabled veteran meets all of the knowledge, skills, and eligibility requirements of the job if granting said preference does not

violate any state equal employment opportunity law; and defining the term ‘veteran’,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4673, Providing for a crime for the theft, damage or release of deer from private game farms,

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

Com. Sub. for H. B. 4673 - “A Bill to amend the Code of West Virginia, 1931 as amended, by adding thereto a new section, designated §20-2-7a, relating to making unlawful the theft, damage or release of deer from private game farms; providing definitions; creating a crime for the taking or carrying away, or intentionally injuring or releasing any captive cervid that is the property of another person; providing a criminal penalty; and providing for restitution to be paid to the victim,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4225, Relating to patriotic displays at public buildings,

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

Com. Sub. for H. B. 4225 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-6-17, relating to patriotic displays at public buildings;

providing legislative findings; allowing for the national motto, 'In God We Trust', to be displayed on public buildings; allowing for the display of the POW-MIA flag at public buildings; authorizing costs associated with display of national motto or POW-MIA flag may be paid with any private donation, gifts, grants and bequests received by the governing authority; and requiring the Department of Administration to develop guidelines for appropriate display of the motto and flag,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4633, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday,

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

Com. Sub. for H. B. 4633 — "A Bill to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as amended, all relating to requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; requiring transfer of juvenile in adult jurisdiction upon reaching eighteen years of age if he or she has either been convicted or is in a pretrial status; directing the Division of Juvenile Services to notify the circuit court of the age of a juvenile reaching the age of eighteen years of age; authorizing the circuit court to conduct a hearing as to alternative placement; mandating that the position of victim be taken under consideration by the court in considering disposition or alternative placement; prohibiting juveniles that commit an adult offense while under the custody of the Division of Juvenile Services from returning back to the

placement in a juvenile facility if the juvenile has attained the age of eighteen years; and requiring the court to conduct a hearing as to placement of a juvenile that has turned eighteen years of age and is remanded back to the custody of the Division of Juvenile Services after completion of an adult sentence,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4517, Limiting the ability of an agent under a power of attorney to take self-benefiting actions,

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

Com. Sub. for H. B. 4517 — “A Bill to amend and reenact §39B-1-114 of the Code of West Virginia, 1931, as amended; and to amend and reenact §39B-2-101 of said code, all relating to limiting the ability of an agent under a power of attorney to take self-benefiting actions; creating a presumption that an act is not within the scope of authority granted in a power of attorney when an agent benefits from the act to the detriment of an ancestor, spouse, heir, or descendant, unless the authority to perform the act is expressly provided with particularity in identifying the existing property interest in the power of attorney; and prohibiting an agent from exercising authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal’s property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise, unless the power of attorney expresses in the grant of authority the specific act and identifies the existing property interest with particularity, rather than in general terms,”

With the recommendation that the committee substitute do pass.

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 26th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 7), Establishing wrongful conduct rule prohibiting recovery of damages in certain circumstances,

(Com. Sub. for S. B. 14), Limiting successor corporation asbestos-related liabilities,

(Com. Sub. for S. B. 146), Establishing instruction standards for early childhood education,

(Com. Sub. for S. B. 150), Authorizing Department of Transportation promulgate legislative rules,

(Com. Sub. for S. B. 369), Reducing legislative education reporting requirements,

And,

(Com. Sub. for S. B. 387), Shared animal ownership agreements to consume raw milk.

Select Committee Reports

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

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

H. B. 4428, Clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference of the bill to the Committee on Health and Human Resources be dispensed with.

In the absence of objection, reference of the bill (H. B. 4428) to the Committee on Health and Human Resources was abrogated.

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

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

H. B. 4180, Authorizing a family court judge to order substance abuse counseling of a child in emergency situations,

And,

H. B. 4620, Prohibiting the production, manufacture or possession of fentanyl,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4180 and H. B. 4620) were each referred to the Committee on the Judiciary.

Unanimous consent having been obtained, Delegate Frich was added as a cosponsor of H. B. 4732.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on February 25, 2016, he approved S. B. 15, S. B. 123, S. B. 261, H. B. 4148, Com. Sub. for H. B. 4158, H. B. 4161, Com. Sub. for H. B. 4244 and Com. Sub. for H. B. 4245.

Upon being recognized, Delegate Campbell sought clarification regarding House Rule 137a, relating to the use of electronic devices on the floor of the House.

The Speaker replied, noting that the rule allows use of electronic communication devices to be authorized by the speaker and that the rule may need to be updated to address current technology. He further stated that use of a cell phone or other electronic device to communicate about legislation currently under consideration would be a violation of the rule.

Special Calendar

Third Reading

H. B. 2494, Creating a provisional plea process in criminal cases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 206**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Ferro.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2494) passed.

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

Com. Sub. for H. B. 4009, Letting Our Counties Act Locally Act; on third reading, coming up in regular order, was read a third time.

During the debate, Delegate Frich stated a point of order related to House Rule 32, relating to order and decorum in debate.

The Speaker reminded Delegate Statler not to refer to members by name.

Delegate Cadle moved the previous question, which motion was sustained and rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 207**), and there were, including 4 paired —yeas 60, nays 39, absent and not voting 1, with the paired, nays, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Byrd Nay: Marcum

Yea: Flanigan Nay: Foster

Nays: Azinger, Bates, Blair, Cadle, Eldridge, Espinosa, Faircloth, Fast, Folk, Frich, Gearheart, Hicks, Householder, Howell, Ihle, Lane, Lynch, McGeehan, Moffatt, Morgan, Moye, J. Nelson, Overington, Perdue, Phillips, Reynolds, Rodighiero, P. Smith, R. Smith, Sobonya, Sponaugle, Stansbury, Upson, Wagner, Waxman, B. White and P. White.

Absent and Not Voting: Ferro.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4009) passed.

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

Com. Sub. for H. B. 4014, Preventing the State Board of Education from implementing common core academic standards and assessments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 208**), and there were, including 4 paired — yeas 73, nays 20, absent and not voting 7, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Byrd Nay: Moye

Yea: Gearheart Nay: Flanigan

Nays: Arvon, Campbell, Caputo, A. Evans, Fleischauer, Guthrie, Hamilton, Hartman, Hornbuckle, Longstreth, Manchin, Moore, Morgan, Perdue, Perry, Pethtel, Pushkin and Rowe.

Absent and Not Voting: Eldridge, Ellington, Ferro, Fluharty, Skinner, Sponaugle and Trecost.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4014) passed.

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

H. B. 4014 — “A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, all relating generally to academic standards and assessments in primary and secondary schools; removing reference to the No Child Left Behind Act; adding digital literacy to the list of education and efficiency standards to be periodically reviewed; defining ‘academic standards’; making a findings with respect to the Legislature’s constitutional authority; making a finding regarding the state board of education’s adoption and renaming of Common Core State Standards; establishing the Academic Standards Evaluation Panel to be appointed by the Senate President and the Speaker of the House; establishing duties of the panel; requiring work of Panel to be completed by October 1, 2016; requiring the state board of education to adopt and implement the standards reviewed and revised by the Panel on or before the 2017-2018 school year; establishing criteria for any academic standards adopted by the state board; requiring withdrawal from Memorandum of Agreement relating to adoption of Common Core State Standards; requiring withdrawal as a governing state in the Smarter Balanced Assessment Consortium; prohibiting implementation of science standards effective July 1, 2016; requiring the state board to keep current science standards in effect through June 30, 2017; requiring the Legislative Oversight Commission on Education and Accountability to review proposed rules for compliance with the law and legislative intent and take further action at its discretion; removing certain requirements that comprehensive statewide student assessment must meet and removing associated rule-making authority; requiring the state board of education to review and approve a summative assessment for certain grade levels to test proficiency in certain subject areas; requiring that summative assessments meet certain requirements; prohibiting the implementation of any assessment developed specifically to align with Common Core State Standards; requiring online assessment preparation; requiring the state board of education to develop a plan and make recommendations regarding end of course assessments and student accountability; establishing reporting requirements; requiring the state board to develop a policy outlining accountability measures for students taking

the comprehensive statewide assessment; requiring that written requests by parent's or guardian's to opt their student out of assessment be granted; prohibiting discipline, punishment, or grade reduction of a student who opts out; prohibiting refusal to grant Promise Scholarship, placing in remedial courses or refusing admission to a West Virginia institution of higher education based upon the parent choice to opt out; and establishing maximum percentage of instructional time for summative assessment."

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

Com. Sub. for H. B. 4201, Increasing the criminal penalties for participating in an animal fighting venture; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 209**), and there were—yeas 85, nays 9, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Eldridge, Ihle, Kurcaba, Marcum, McGeehan, Perdue, R. Phillips, Walters and P. White.

Absent and Not Voting: Byrd, Ellington, Ferro, Flanigan, Hicks and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4201) passed.

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

H. B. 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 210**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Byrd, Ellington, Ferro, Flanigan and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4351) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 211**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Byrd, Ellington, Ferro, Flanigan and Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4351) takes effect July 1, 2016.

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

H. B. 4358, Relating to out of state physicians and surgeons traveling with sports teams within this state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 212**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Byrd, Ellington, Ferro, Flanigan, Hamilton and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4358) passed.

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

Com. Sub. for H. B. 4433, Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 213**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Byrd, Ellington, Ferro, Flanigan, Hornbuckle and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4433) passed.

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

On this question, the yeas and nays were taken (**Roll No. 214**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Byrd, Ellington, Ferro, Flanigan, Gearheart, Hornbuckle, Howell and Skinner.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4433) takes effect from its passage.

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

Com. Sub. for H. B. 4487, Relating to state retirement systems; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 215**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Cowles and Moffatt.

Absent and Not Voting: Blair, Byrd, Ellington, Ferro, Flanigan, Hornbuckle and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4487) passed.

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

Com. Sub. for H. B. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 216**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Byrd, Ellington, Ferro, Flanigan, Hornbuckle and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4519) passed.

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

H. B. 4558, Relating to victim notification and designation of additional individuals to receive notice of an offender's release; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 217**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Ellington, Ferro, Flanigan, Foster and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4558) passed.

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

Com. Sub. for H. B. 4607, Adding violations of law upon which a public servant's retirement plan may be forfeited; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4612, Relating generally to tax increment financing and economic opportunity development districts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 218**), and there were—yeas 81, nays 14, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Ambler, Azinger, Canterbury, Cooper, Faircloth, Folk, Ihle, Marcum, McGeehan, Stansbury, Summers, Upson, Waxman and P. White.

Absent and Not Voting: Byrd, Ellington, Ferro, Flanigan and Lynch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4612) passed.

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

Com. Sub. for H. B. 4636, Increasing the penalties for violating the Whistle-blower Law; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 219**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Ellington, Ferro and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4636) passed.

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

H. B. 4652, Relating to the creation of an intermediate contractor's license; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 220**), and there were, including 2 paired—yeas 92, nays 5, absent and not voting 3, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Reynolds Nay: Byrd

Nays: Gearheart, Householder, Marcum and Sobonya.

Absent and Not Voting: Ellington, Ferro and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4652) passed.

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

Delegates Sponaule and Trecost announced that they were absent when the vote was taken on Roll No. 208, and that had they been present, they would have voted “Yea” thereon.

Delegates Eldridge, Fluharty and Skinner announced that they were absent when the vote was taken on Roll No. 208, and that had they been present, they would have voted “Nay” thereon.

Delegate Boggs announced that he was absent when the votes were taken on Roll Nos. 210 through 213, and that had he been present, he would have voted “Yea” thereon.

Delegate Howell announced that he was absent when the vote was taken on Roll No. 214, and that had he been present, he would have voted “Yea” thereon.

At 1:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 2:30 p.m.

Second Reading

Com. Sub. for H. B. 2110, Relating generally to the tax treatment of manufacturing entities; on second reading, coming up in regular order, was read a second time.

On motion of Delegate E. Nelson, the bill was amended on page five, section three, line twenty-two, following the number "211112", by striking out the comma and the words "332992 or 332994".

And on page six, section four, line five, following the number "211112", by striking out the comma and the words "332992 or 332994".

And,

On page seven, section four, line eleven, following the word "article" and the parenthesis, by striking out the words "for any eligible taxpayer operating a business activity classified as having a sector identifier, consisting of the six digit code number 211112; and (2)", and inserting in lieu thereof a colon and the words "Provided, That".

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 2205, Creating the crime of prohibited sexual contact by a psychotherapist; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2960, Permitting county boards of education to develop emergency preparedness drills in schools; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4237, Supporting and Strengthening Families Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4299, Increasing the amount volunteer fire companies or paid fire departments may charge for reimbursement; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4321, Relating to tax credits for apprenticeship training in construction trades; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4330, Relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and to expand the prescriptive authority that may be granted to advanced practice registered nurses; on second reading, coming up in regular order, was read a second time.

Delegate Foster moved to amend the bill on page ten, section fifteen-b, line thirty-one, after the word “Virginia”, by inserting a comma and “who is practicing in the same facility as the collaborating advanced practice registered nurse” and a comma.

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

The yeas and nays having been ordered, they were taken (**Roll No. 221**), and there were—yeas 21, nays 71, absent and not voting 8, with the yeas and absent and not voting being as follows:

Yeas: Arvon, Atkinson, Border, Butler, Cadle, Cowles, D. Evans, Foster, Frich, Hornbuckle, Howell, Kessinger, Lane, E. Nelson, Phillips, Rodighiero, Rohrbach, Stansbury, Statler, Waxman and Zatezalo.

Absent and Not Voting: Azinger, Byrd, Cooper, Ellington, Ferro, Flanigan, Moore and Weld.

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

An amendment to the bill, recommended by Delegate Foster, was reported by the Clerk.

Whereupon,

Unanimous consent having been obtained the amendment was withdrawn and reformed as follows:

On page twelve, section fifteen-d, line four, after the period, by inserting following, "This section may not be construed to expand the scope of practice of an advanced practice registered nurse outside his or her area of specialty."

The amendment was then adopted.

There being no further amendments, the bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4339, Relating to wildlife resources; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4380, Adding the spouse of an indigent person as a possible individual who may be liable for the funeral service expenses; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending and with

restricted right to amend by Delegates E. Nelson and Reynolds, and the rule was suspended to permit the consideration of the amendments on that reading.

H. B. 4411, Relating to penalty for illegally taking native brook trout; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4461, Relating to School Building Authority School Major Improvement Fund eligibility; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4587, Relating to violations associated with absent voters' ballots; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4658, Relating to the Board of Funeral Service Examiners; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4706, Relating to county board regional meetings; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4725, Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4727, Relating to state plan amendments; on second reading, coming up in regular order, was read a second time.

An amendment to the bill, offered by Delegate Lane, was reported by the Clerk.

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, ruling that the amendment was not germane to the fundamental purpose of the bill.

An amendment to the bill, offered by Delegate Perdue, was reported by the Clerk.

Whereupon,

Delegate Perdue asked and obtained unanimous consent that the amendment be withdrawn.

The being no further amendments, the bill was then ordered to engrossment and third reading.

H. B. 4730, Relating to computer science courses of instruction; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4731, Relating to requiring comprehensive drug awareness and prevention program in all public schools; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4732, Relating to performance metrics for the West Virginia Division of Highways; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4733, Relating to requiring the Commissioner of Highways to develop a statewide communications plan known as the Comprehensive Public Involvement Plan; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for S. B. 10, Creating Unborn Child Protection from Dismemberment Abortion Act,

Com. Sub. for H. B. 2826, Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; “Sarah Nott’s Law”,

Com. Sub. for H. B. 4279, Relating to disposition of seized firearms,

Com. Sub. for H. B. 4317, Limiting factors in parenting plans,

H. B. 4324, Authorizing information sharing by Workforce West Virginia,

H. B. 4346, Relating to bear hunting and offenses and penalties,

Com. Sub. for H. B. 4352, Relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources,

Com. Sub. for H. B. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act,

Com. Sub. for H. B. 4463, Permitting the practice of telemedicine,

Com. Sub. for H. B. 4502. Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses,

And,

Com. Sub. for H. B. 4505. Allowing powerball winners to remain anonymous.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Ferro.

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

Committee Reports

On motion for leave, a bill was introduced (Originating in the Committee on Energy and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates R. Smith, Ireland, Phillips, Caputo, Eldridge, Anderson, Boggs, D. Evans, Ambler, Lynch, Zatezalo, Upson, Cadle, P. White, McCuskey and Storch:

H. B. 4726 — “A Bill to repeal §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6c of said code; to amend and reenact §22-1-7 of said code; to amend and reenact §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a, §22-3-30a of said code; to amend said code by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37, §22-3-38 and §22-3-39; to amend and reenact §22-3A-2, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-8 and §22-3A-10 of said code; to amend and reenact §22-11-6 of said code; to amend and reenact §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19,

§22A-1-20, §22A-1-31 and §22A-1-35 of said code; to amend and reenact §22A-1A-2 of said code; to amend and reenact §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55, §22A-2-66 and §22A-2-77 of said code; to amend and reenact §22A-7-7 of said code, all relating to coal mining generally; making findings; eliminating the Department of Environmental Protection Office of Explosives and Blasting and consolidating the remaining duties and responsibilities related to blasting to the Department of Environmental Protection Division of Mining and Reclamation; adding blasting oversight; providing that the Department of Environmental Protection to revise rules on hydrologic protection and stormwater runoff analyses on mining operations and to promulgate rules that conform with the federal regulations requirements to minimize the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas; providing that cumulative hydrologic impact assessment may be conducted; requiring a statement of probable hydrologic consequences and to prevent flooding; modifying certain findings, ventilation requirements, and roof or rib requirements; requiring the Department of Environmental Protection to follow deadlines for approving or denying applications for site specific water quality criteria; providing that state mine rescue teams may serve as backup mine rescue teams for mines in this state; providing that the Director of the Office of Miners' Health, Safety and Training to have the authority to amend and propose rules for the use of diesel equipment in the state's mines; providing that the Board of Mine Health and Safety to have the authority to propose rules for the use of diesel equipment in the state's mines; providing for hearings over suspensions for positive drug tests, transferring certification authority to the Director of the Office of Miners' Health Safety and Training for mining emergency medical technicians; requiring the State Board of Appeals to allow evidence of testing procedures and test results be introduced through notarized affidavits from Medical Review Officers and testify if necessary; providing for telephonic testimony under oath; providing that the penalty for not reporting accidents in fifteen minutes to the Office of Miners' Health, Safety and Training be modified to 'up

to \$100,000'; providing that the Director of Office of Miners' Health, Safety and Training shall have the authority to modify assessed penalties and penalties may be modified by the State Board of Appeals based on a vote of two Board members; providing a method incase a miners' wireless emergency communications device fails; and allowing company input into state supervisory training and how it is scheduled during the year."

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

Your Committee on Government Organization has had under consideration:

H. B. 4654, Relating to the Executive Secretary of the Board of Registered Professional Nurses,

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

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

Your Committee on Government Organization has had under consideration:

H. B. 4685, Relating to professional and occupational board members,

And,

H. B. 4696, Creating the unlicensed practice review board,

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

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

Your Committee on Government Organization has had under consideration:

H. B. 4660, Relating to the information required to be included in support of an application to the Public Service Commission for a certificate of convenience and necessity for a water, sewer and/or stormwater service project,

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

Com. Sub. for H. B. 4660 — “A Bill to amend and reenact §24-2-11 of the Code of West Virginia, 1931, as amended, relating to Public Service Commission certificates of convenience and necessity for water, sewer and/or stormwater service projects; requiring a preliminary engineering report and financial analysis of the proposed project; prohibiting the Public Service Commission from requiring final design materials to be submitted in support of an application; permitting an entity to pursue a further rate increase through the normal rate changing process if an increase is needed exceeding fifteen percent above the rates already approved; prohibiting the Public Service Commission from modifying the scope of a project to which a certificate was previously granted; and prohibiting the rescinding of a previously granted certificate if the rates expected to go in effect upon substantial completion of the project have increased by less than fifteen percent.”

And,

H. B. 4561, Creating a special hiring process for West Virginia Division of Highways employees,

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

Com. Sub. for H. B. 4561 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to requiring the Commissioner of the

Division of Highways and the Director of the Division of Personnel to collaborate to develop a special hiring procedure for hourly personnel positions in the Division of Highways; establishing requirements for the special hiring procedure; exempting the Division of Highways and the division of Personnel from classified service hiring procedures upon implementation of the special hiring process; exceptions; establishing reporting requirements; and requiring emergency and legislative rulemaking.”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on Government Organization has had under consideration:

H. B. 4608, Requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice,

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

Com. Sub. for H. B. 4608 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-3-10g, relating to requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice.”

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates McCuskey, Shott, Deem, Sobonya, Folk, Fast, Manchin, Moore, Fluharty, and Fleischauer:

H. B. 4734 — “A Bill to amend and reenact §33-30-6 of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-30-8 of said code, all relating to mine subsidence insurance; increasing the maximum amount of the total insured value reinsured by the Board of Risk Management.”

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

Your Committee on Finance has had under consideration:

H. B. 4466, Relating to public school support,

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

Com. Sub. for H. B. 4466 — “A Bill to amend and reenact §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-8a, §18-9A-9 and §18-9A-10 of the Code of West Virginia, 1931, as amended, all relating to public school support; basing the allowable number of state aid professional educators on a ratio basis, rather than the number employed subject to a limit; providing a certain salary level be used when the number of professional positions exceed the number employed in a county; basing minimum professional instructional personnel required to be on a ratio basis of funded professional educators; providing for prorating professional instructional personnel among participating counties in a joint school or in joint programs and services; deleting obsolete language and mandated periodic legislative review; basing the allowable number of service personnel on a ratio basis, rather than number employed subject to a limit; providing a certain salary level be used when the number of service positions exceed the number employed in a county; providing for proration of number and allowance of personnel employed in part by state and county funds; adding professional student support personnel allowance

to calculation of teachers retirement fund allowance; updating employer retirement contribution rate percentage used for calculating retirement allowance to reflect both plans; allowing a limited portion of funds for bus purchases to be used for certain facility, equipment and other current expense priorities if requested and approved; reducing maximum amount of foundation allowance for regional education service agencies; reducing percent of growth in local share amount for improving instructional programs; removing authorization for use of instructional improvement funds for implementation and maintenance of regional computer information system; increasing percent of growth in local share amount for improving instructional technology; increasing base dollar amount to be distributed to each county; authorizing the use of instructional technology improvement funds for employment of technology system specialist subject to a limit and authorization by state superintendent; and specifying when certain debt service funds payments are to be made into school building capital improvement fund,”

And,

H. B. 4566, Relating to school personnel,

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

Com. Sub. for H. B. 4566 — “A Bill to amend and reenact §18-4-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18A-2-2, §18A-2-5a, §18A-2-6, §18A-2-7 and §18A-2-8a of said code; to amend said code by adding thereto a new section, designated §18A-2-7b; to amend and reenact, §18A-4-7a, §18A-4-8b and §18A-4-8e of said code; and to amend and reenact §18A-5-8 of said code, all relating to school personnel; including assistant and associate superintendents under provisions for permanent administrative certification for superintendents; changing deadline for county board vote on termination of continuing contracts of teachers; requiring the department to report on database system certain

disqualifications to teach; changing deadlines for teachers and service personnel to give notice of retirement to qualify for early notification payment; changing deadline for county board vote on termination of continuing contracts of service persons; changing deadline for notice of consideration for transfer; changing deadline for hearing on proposed transfer; changing deadline to provide list of employees considered for transfer to county board; changing method of notification and documentation of receipt of notice to employees recommended for transfer; making technical alignment of dates on personnel action and foreseen need for personnel; consolidating limitations on employee transfers after twentieth day prior to instructional term; removing reports to state superintendent; removing exemption for position vacated but not posted; changing transfer limit to twentieth day for prior for service person employed and assigned as autism mentor or certain aid, paraprofessional, interpreter or early childhood assistant teacher; limiting transfers service persons after the twentieth day prior with certain exceptions; changing deadline providing county board list of probationary teachers recommended for rehire; providing for filling position known on or before March 1 to exist for the next school year and requiring employees subject to release to be considered prior to posting for application for nonemployees; removing requirement to submit lateral transfer policies to state board to be complied for reports to LOCEA; facilitating postings for longer than the five-day minimum; removing requirement to any applicant of status of his or her application after hiring decision made; changing requirements for notice and receipt notification to persons on preferred recall of all position openings; requiring periodic review and update of service personnel competency tests; removing requiring requirement for minimum one day in-service training to assist preparation for competency tests; removing obsolete language and making technical improvements.”

With the recommendation that the committee substitutes each do pass.

Remarks by Members

Delegate Eldridge asked and obtained unanimous consent that the remarks of Delegate Lane regarding the amendment he offered to H. B. 4727 be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Lynch announced that he was absent when the vote was taken on Roll No. 218, and that had he been present, he would have voted “Yea” thereon.

Delegate Arvon filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 4733.

Delegate Hamrick filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 4473.

Delegate Shaffer filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. C. R. 80.

At 3:51 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:30 p.m.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 106 — “A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers of warranties with respect to goods which are the subject of, or are intended to become the subject of, a consumer transaction; permitting exclusion, modification or limitation of warranty upon sale of manufactured home under certain circumstances; permitting consumer to waive a warranty as to a particular defect or malfunction which dealer has disclosed; and setting requirements for waiver to be effective”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

S. B. 419, Relating to termination of Workers' Compensation Debt Reduction Act.

A message from the Senate, by

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

Com. Sub. for S. B. 525 — “A Bill to amend and reenact §33-26-2, §33-26-3, §33-26-4, §33-26-5, §33-26-8, §33-26-9, §33-26-10, §33-26-11, §33-26-12, §33-26-13, §33-26-14 and §33-26-18 of the Code of West Virginia, 1931, as amended, all relating to West Virginia Insurance Guaranty Association Act; modifying scope and construction of act; adding and amending definitions; clarifying and adding powers, duties and rights of association; modifying provisions concerning effect of paid claims, exhaustion of coverage, prevention of insolvencies and stay of proceedings; changing due date of annual financial report; limiting covered claims; expanding association's right to recover and be reimbursed; providing for confidentiality of financial information; and exempting certain reports and recommendations from Freedom of Information Act”; which was referred to the Committee on Banking and Insurance then the Judiciary.

A message from the Senate, by

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

S. B. 538 — “A Bill to amend and reenact §5B-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §17A-2-6 of said code; and to amend and reenact §29-21-5 of said code, all relating to the salaries of appointed officers being fixed by Governor”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 593 — “A Bill to amend and reenact §21A-6-3 of the Code of West Virginia, 1931, as amended, relating to disqualification for unemployment benefits; providing that an individual shall be disqualified for benefits for any week, or portion of a week, in which he or she left or lost his or her job as a result of a strike; clarifying that a lockout shall not be deemed to be a strike; providing that a lockout shall not form the basis of any disqualification from benefits; providing that operation of a facility by employees of the company shall not be deemed reason to grant employees on strike unemployment benefits; and establishing that operation of a facility by workers hired to replace the employees on strike would make striking workers eligible for benefits”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 613 — “A Bill to amend and reenact §31A-4-26 of the Code of West Virginia, 1931, as amended, relating to defining unimpaired capital and unimpaired surplus for purposes of calculating the lending limit of a state-chartered bank”; which was referred to the Committee on Banking and Insurance then the Judiciary.

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

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 26th day of February, 2016, presented to His

Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4145), Relating to carry or use of a handgun or deadly weapon.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates McCuskey, Ireland, Shaffer, Kessinger, Sobonya, Summers and Azinger:

H. B. 4735 — “A Bill to amend §55-7B-2 of the Code of West Virginia, 1931, as amended, relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers.”

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

Your Committee on the Judiciary has had under consideration:

H. B. 2665, Relating to participation in Motor Vehicle Alcohol Test and Lock Program,

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

Com. Sub. for H. B. 2665 — “A Bill to amend and reenact §17C-5-2b of the Code of West Virginia, 1931, as amended, relating to participation in Motor Vehicle Alcohol Test and Lock Program; limiting eligibility for participation in the program and for dismissal and discharge of charges,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4314, Prohibiting the sale of powdered or crystalline alcohol,

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

Com. Sub. for H. B. 4314 — “A Bill to amend and reenact §60-1-5, §60-3-11, §60-6-7 and §60-6-8 of the Code of West Virginia, 1931, as amended, all relating to prohibiting the sale of powdered or crystalline alcohol; and to amend said code by adding thereto a new section, designated §61-10-33, all relating to prohibiting the sale of pure caffeine products; defining terms; prohibiting the commissioner from listing or stocking powdered alcohol in inventory; creating a criminal offense for anyone who manufactures or sells, aids or abets in the manufacture or sale of powdered alcohol, or possesses, uses or in any other manner provides or furnishes powdered alcohol; making a second and subsequent offense a felony and providing for increased penalties; creating a criminal offense for any licensee who sells, possesses, possesses for sale, furnishes or provides any powdered alcohol; making a second and subsequent offense a felony and providing for increased penalties; defining terms; creating a criminal offense for the sale and possession of pure caffeine products; providing exclusions; and providing penalties,”

With the recommendation that the committee substitute do pass.

At 5:59 p.m., the House of Delegates adjourned until 12 noon, Saturday, February 27, 2016.



SATURDAY, FEBRUARY 27, 2016

FORTY-SIXTH DAY

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

The House of Delegates met at 12:00 noon, and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Friday, February 26, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 26th day of February, 2016, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(S. B. 419), Relating to termination of Workers' Compensation Debt Reduction Act.

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

Your Committee on Finance has had under consideration:

H. B. 4168, Creating a special motor vehicle collector license plate,

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

Com. Sub. for H. B. 4168 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2 and §17A-6F-3, all relating to authorizing the Commissioner of the Division of Motor Vehicles to issue a special motor vehicle collector license plate; defining terms; establishing requirements for issuance; establishing fees; and providing requirements and conditions for use of the plate on a collector motor vehicle.”

H. B. 4239, Relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia,

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

Com. Sub. for H. B. 4239 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-8d, relating to development of a highway project plan for the extension of the State of Kentucky’s Mountain Parkway Expansion project from the eastern Kentucky border with West Virginia into Mercer County and Raleigh County; legislative findings; requiring the Commissioner of Highways to develop the highway project plan; requiring quarterly progress and status reports; requiring a full report to the Legislature by the first day of the 2017 regular session,”

H. B. 4301, Relating to a framework for initiating comprehensive transformation of school leadership,

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

Com. Sub. for H. B. 4301 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §18-2-36, relating to a framework for initiating comprehensive transformation of school leadership; making legislative findings that provide a context for leadership that promotes instructional improvement; stating purpose of section as framework for development of needed statutory and policy changes; stating further purpose to initiate transformation through general statement of legislative intent; providing certain expectations; stating intent for process of broad stakeholder input; requiring convening of stakeholders to assist state board; listing minimum issues to be considered for state recommendations; and requiring reports and recommendations to Legislature and Governor,”

H. B. 4486, Terminating the Behavioral Health Severance and Business Privilege Tax,

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

Com. Sub. for H. B. 4486 — “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of behavioral health severance and business privilege tax; specifying effective date of the termination; establishing method of payment of outstanding refund claims; generating replacement revenue stream by changing the durable medical goods sales tax exemption to home users only; specifying effective dates of this amendment; providing method to claim this exemption; and providing definitions for clarification,”

H. B. 4500, Oil and Gas Royalty Payment and Transparency Act of 2016,

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

Com. Sub. for H. B. 4500 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-6C-1, §22-6C-2, §22-6C-3, §22-6C-4, §22-6C-5 and §22-6C-6, all

relating to oil and gas royalty owner protections; providing methods of ensuring transparency in determining the amount paid to a royalty interest owner by requiring certain information be attached to the payment instrument provided to the interest owner by the producer; defining terms; establishing a general rule for the accumulation of proceeds from production and the payment of funds therefrom; requiring the timely payment of royalties and establishing interest penalty for failure to timely pay an interest owner; requiring oil and gas producers to report to the Department of Environmental Protection on a quarterly basis all production data associated with a given well; requiring the Department of Environmental Protection to collect all quarterly production data and organize such data on the Department of Environmental Protection website; resolving conflicts between division orders and leases; and providing for rulemaking,”

H. B. 4625, Redirecting certain racing and gaming revenues from greyhound development funds to the State Road Fund,

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

Com. Sub. for H. B. 4625 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-30; to amend said code by adding thereto a new section, designated §29-22-31; to amend said code by adding thereto a new section, designated §29-22A-20; and to amend said code by adding thereto a new section, designated §29-22C-35, all relating to redirecting certain racing and gaming revenues from greyhound development funds to the State Road Fund,”

And,

H. B. 4662, Permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers,

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

Com. Sub. for H. B. 4662 — “A Bill to amend and reenact §17C-16-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-16-6 of said code, all relating to permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers to purchase, equip and maintain vehicles; increasing the allowable fee for vehicle inspection and any necessary headlight adjustment,”

With the recommendation that the committee substitutes each do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, Com. Sub. for H. B. 4486, Com. Sub. for H. B. 4500, Com. Sub. for H. B. 4625 and Com. Sub. for H. B. 4662 were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4196, Relating to abandoned antique vehicles,

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

Com. Sub. for H. B. 4196 — “A Bill to amend and reenact §17-24A-1 and §17-24A-4 of the Code of West Virginia, 1931, as amended; to amend and reenact §17A-4-10 of said code; and to amend said code by adding thereto a new section, designated §17-24A-6a, all relating to abandoned antique vehicles; adding new definitions; allowing automobile auctions to obtain title to abandoned vehicles; creating a process by which an automobile auction may obtain a salvage certificate or a nonrepairable motor vehicle certificate for vehicles abandoned on its property; establishing a process by which automobile auctions may obtain title to and sell certain abandoned vehicles; allowing an insurance company to obtain a salvage certificate

or a cosmetic total loss salvage certificate after paying a total loss claim on a vehicle; creating a special procedure for a person in possession of an abandoned antique vehicle to apply for and receive title to the vehicle; creating a procedure for the Division of Motor Vehicles to search for the owner of the vehicle and provide notice of the application for title to vehicle; creating a procedure for the owner to reclaim the vehicle within 30 days of notice of an application for title to the vehicle; establishing fees to accompany an application for title to the vehicle; establishing fees for reclamation of the vehicle by owner; creating a misdemeanor and imposing fines for interfering with an owner's attempt to reclaim a vehicle; and directing the division to promulgate rules and forms to effectuate new procedure,"

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4308, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims,

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

Com. Sub. for H. B. 4308 — "A Bill to amend and reenact §36-1-20 of the Code of West Virginia, 1931, as amended; and to amend and reenact §42-4-2 of said code, all relating generally to barring persons who are convicted of certain criminal offenses from acquiring property from their victims through joint tenancy or inheritance; and creating exceptions,"

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Folk, Overington, Zatezalo, Manchin, Moore, Sobonya, Kessinger, Foster, Summers and Azinger:

H. B. 4724 — “A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to adding a requirement for the likelihood of imminent lawless action to the prerequisites for the crime of intimidation and retaliation.”

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

Your Committee on the Judiciary has had under consideration:

H. B. 4248, Relating to methadone regulation,

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

Com. Sub. for H. B. 4248 — “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5Y-1, all relating to methadone regulation; requiring the secretary of Health and Human Resources to propose legislative rules for the regulation of opioid treatment programs; requiring the Health Care Authority to develop new certificate of need standards; prohibiting the Health Care Authority from approving applications of certificate of need for opioid treatment programs; imposing a moratorium on licensure of certain new opioid treatment programs; providing the secretary monitor opioid treatment programs; requiring program staff to receive minimum training; setting forth standards for initial assessment to admission to a program; setting forth criteria to be admitted to a treatment program; requiring a program to develop individualized treatment plans; providing for random drug testing for program patients; enunciating consequences for positive drug tests, including mandatory counseling; requiring mandatory statistical reporting to the Department of Health and Human Resources and the Legislative Oversight Commission on Health and Human Resources; prescribing times programs must be

open; setting forth certain staff requirements for programs; requiring programs to establish peer review committees that include a physician member; and requiring the secretary to prescribe the procedure for peer review,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 4248) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4364, Internet Privacy Protection Act,

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

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

Your Committee on the Judiciary has had under consideration:

H. B. 4035, Permitting pharmacists to furnish naloxone hydrochloride,

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

Com. Sub. for H. B. 4035 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-46-7, relating to permitting pharmacists to furnish opioid antagonists in accordance with standardized procedures

developed and approved by both the West Virginia Board of Pharmacy and the West Virginia Board of Medicine; and granting rule-making authority,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4537, Relating to the regulation of chronic pain clinics,

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

Com. Sub. for H. B. 4537 — “A Bill to amend and reenact §16-5H-2, §16-5H-5 and §16-5H-7 of the Code of West Virginia, 1931, as amended, all relating to the regulation of chronic pain clinics; updating definitions; deleting an exemption; and clarifying the process for hearing notices regarding license suspension or revocation,”

With the recommendation that the committee substitute do pass.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Weld, Kessinger, Sobonya, Summers, Shott, Fast, McCuskey, Moore, Shaffer, Byrd and Manchin:

H. B. 4737 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-406a, relating to increased penalties for manufacturing or transportation of a controlled substance in the presence of a minor; providing for increased penalty for adult persons convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver a controlled substance in the presence of a minor; and providing for

increased penalty for adult persons convicted of transporting a controlled substance into this state with the intent to deliver or manufacture a controlled substance while being in the presence of a minor at the time of the offense.”

Resolutions Introduced

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

H. C. R. 92— “Requesting the Division of Highways to name the bridge number 1296 on Route 220, Franklin Pike, five miles South of Petersburg, Grant County, the ‘Captain John Bond and the West Virginia State Troops Memorial Bridge’.”

Whereas, The Home Guard in Petersburg, Grant County, was officially called the West Virginia State Troops during the Civil War. One of the local Captains of the State Troops was Captain John Bond who was Captain of Company A. All of the members of this company were from the Franklin Pike area. Many of these men gave their lives for their state and country during one of the darkest periods in the history of the United States and West Virginia; and

Whereas, Naming the bridge number 1296 on Route 220, Franklin Pike, five miles south of Petersburg, Grant County, the “Captain John Bond and the West Virginia State Troops Memorial Bridge” is an appropriate recognition of his contributions and those of the brave men who comprised the members of Company A of the West Virginia State Troops to their country, state, community and Grant County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 1296 on Route 220, Franklin Pike, five miles south of

Petersburg, Grant County, the “Captain John Bond and the West Virginia State Troops 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 “Captain John Bond and the West Virginia State Troops 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 Division of Transportation and the surviving relatives of Captain John Bond, the surviving relatives of the West Virginia State Troops and to the 7th West Virginia Infantry Camp #7, Sons of the Civil War.

Motions

Delegate Sponaugle submitted a written motion, under the provisions of House Rule 82, to discharge H. B. 2709 from the Committee on Senior Citizen Issues, with a second reference to the Committee on Finance.

Delegate Cowles moved that the motion be tabled.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 222**), and there were—yeas 52, nays 38, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Campbell, Caputo, Eldridge, Faircloth, Fleischauer, Fluharty, Folk, Frich, Guthrie, Hanshaw, Hartman, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle and P. White.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the motion to table the motion to discharge prevailed.

Special Calendar

Third Reading

Com. Sub. for H. B. 2110, Relating generally to the tax treatment of manufacturing entities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 223**), and there were—yeas 89, nays 1, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2110) passed.

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

Com. Sub. for H. B. 2205, Creating the crime of prohibited sexual contact by a psychotherapist; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for H. B. 2205) to the Committee on Finance was dispensed with.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 224**), and there were—yeas 56, nays 34, absent

and not voting 10, with the nays and absent and not voting being as follows:

Nays: Azinger, Bates, Blackwell, Campbell, Canterbury, Caputo, Eldridge, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Kelly, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moye, J. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Shaffer, Skinner, Sponaugle, Trecost and P. White.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2205) passed.

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

Com. Sub. for H. B. 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 225**), and there were—yeas 88, nays 2, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Cowles and Moffatt.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2801) passed.

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

H. B. 2960, Permitting county boards of education to develop emergency preparedness drills in schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 226**), and there were—yeas 85, nays 5, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: D. Evans, Lynch, Marcum, Moye and Perry.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2960) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 227**), and there were—yeas 84, nays 6, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: D. Evans, Marcum, Moye, Perry, Skinner and P. White.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2960) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4237, Supporting and Strengthening Families Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 228**), and there were—yeas 88, nays 1, absent and not voting 11, with the nays and absent and not voting being as follows:

Nays: Shaffer.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller, Moore and Morgan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4237) passed.

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

H. B. 4299, Increasing the amount volunteer fire companies or paid fire departments may charge for reimbursement; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 229**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Guthrie, Kelly, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4299) passed.

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

H. B. 4315, Relating to air-ambulance fees for emergency treatment or air transportation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 230**), and there were, including 2 paired —yeas 66, nays 24, absent and not voting 10, with the paired, nays, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Byrd Nay: McGeehan

Nays: Arvon, Azinger, Blair, Butler, Faircloth, Fast, Folk, Gearheart, Hamrick, Hill, Howell, Ihle, Kessinger, Lynch, McCuskey, J. Nelson, Shaffer, Sponaule, Storch, Trecost, Upson, Wagner and B. White.

Absent and Not Voting: Cooper, Deem, Eldridge, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4315) passed.

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

H. B. 4315 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-16-8a, relating to collection of air-ambulance fees for emergency treatment or air transportation rendered to persons covered by Public Employee Insurance Agency plans; allowing providers of air ambulance services not under contract with the Public Employees Insurance Agency to collect an amount up to the equivalent paid for federal reimbursement

for services rendered to covered employees or dependents; and requiring providers of air ambulance services that enter into a subscription service agreement with employees or dependents covered by Public Employee Insurance Agency plans to accept the subscription fee as payment in full for services rendered.”

H. B. 4321, Relating to tax credits for apprenticeship training in construction trades; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 231**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4321) passed.

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

On this question, the yeas and nays were taken (**Roll No. 232**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Fleischauer, Kurcaba, Lane, McCuskey, Miller and Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4321) takes effect January 1, 2017.

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

Com. Sub. for H. B. 4330, Relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock

a commercial pond or lake; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 233**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4330) passed.

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

On this question, the yeas and nays were taken (**Roll No. 234**), and there were—yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Householder, Kurcaba, Lane, Miller and Moore.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4330) takes effect from its passage.

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

H. B. 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and expanding prescriptive authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 235**), and there were, including 4 paired —yeas 72, nays 20, absent and not voting 8, with the paired, nays, and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Byrd Nay: Rohrbach

Yea: Sponaule Nay: Flanigan

Nays: Arvon, Atkinson, Border, Butler, Cadle, D. Evans, Frich, Hamrick, Kessinger, E. Nelson, Perry, Rodighiero, Stansbury, Statler, Storch, Waxman, B. White and Zatezalo.

Absent and Not Voting: Cooper, Deem, Ellington, Ferro, Kurcaba, Lane, Miller and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4334) passed.

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

At 3:06 p.m., on motion of Delegate Cowles, the House of Delegates recessed for fifteen minutes.

Com. Sub. for H. B. 4339, Relating to wildlife resources; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 236**), and there were—yeas 81, nays none, absent and not voting 19, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Faircloth, Ferro, Flanigan, Hamilton, Hicks, Hornbuckle, Kurcaba, Lane, Marcum, McGeehan, Miller, Moore, Morgan and Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4339) passed.

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

Com. Sub. for H. B. 4380, Adding the spouse of an indigent person as a possible individual who may be liable for the funeral service expenses; on third reading, coming up in regular order, with amendments pending and with restricted right to amend by Delegates E. Nelson and Reynolds, was reported by the Clerk.

On motion of Delegates Summers and E. Nelson, the bill was amended on page three, section eighteen, line thirty-two, following the word “cremation”, by inserting the words “and expenses for interment by a perpetual care cemetery as these terms are defined in section one, article five-a, chapter thirty-five of the code.”

An amendment to the bill, offered by Delegate Reynolds, was reported by the Clerk on page two, section eighteen, line one, by striking out the number “\$1,000.00” and inserting in lieu thereof the number “\$1,250.00”.

Whereupon,

Delegate Reynolds asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegates E. Nelson and Reynolds, the bill was amended on page two, section eighteen, line two, by striking out the period and inserting in lieu thereof “who are cremated, and \$1,250 for those who are buried” and a period.

On motion of Delegate Reynolds, the bill was amended on page three, section eighteen, line twenty-nine, by striking out the word “department” and inserting in lieu thereof the words “family member otherwise responsible for reimbursement pursuant to subsection (a), section nine of this article if he or she had not been deemed indigent”.

There being no further amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 237**), and there were—yeas 58, nays 29, absent and not voting 13, with the nays and absent and not voting being as follows:

Nays: Bates, Boggs, Butler, Campbell, Caputo, Eldridge, Fluharty, Gearheart, Hartman, Hornbuckle, Ihle, Longstreth, Moye, J. Nelson, Perdue, Perry, Pethel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, P. Smith, Sobonya, Sponaugle, Statler, Trecost and Wagner.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore and Morgan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4380) passed.

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

H. B. 4411, Relating to penalty for illegally taking native brook trout; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 238**), and there were—yeas 85, nays 1, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4411) passed.

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

On this question, the yeas and nays were taken (**Roll No. 239**), and there were—yeas 85, nays 1, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4411) takes effect from its passage.

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

H. B. 4461, Relating to School Building Authority School Major Improvement Fund eligibility; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 240**), and there were—yeas 82, nays 4, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: Kessinger, Lynch, Perry and P. White.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4461) passed.

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

Com. Sub. for H. B. 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 241**), and there were—yeas 85, nays 1, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: Caputo.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4554) passed.

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

Com. Sub. for H. B. 4587, Relating to violations associated with absent voters' ballots; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 242**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4587) passed.

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

Com. Sub. for H. B. 4607, Adding violations of law upon which a public servant's retirement plan may be forfeited; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin requested to be excused from voting on the passage of Com. Sub. for H. B. 4607 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 243**), and there were—yeas 84, nays none, absent and not voting 16, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kessinger, Kurcaba, Lane, Marcum, Miller, Moore, Morgan, Reynolds and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4607) passed.

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

H. B. 4658, Relating to the Board of Funeral Service Examiners; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 244**), and there were—yeas 54, nays 32, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: Ambler, Bates, Boggs, Butler, Campbell, Caputo, Eldridge, D. Evans, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Moye, J. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Statler, Upson, Wagner and Weld.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4658) passed.

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

H. B. 4725, Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 245**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4725) passed.

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

H. B. 4727, Relating to state plan amendments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 246**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4727) passed.

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

H. B. 4730, Relating to computer science courses of instruction; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 247**), and there were—yeas 82, nays 4, absent and not voting 14, with the nays and absent and not voting being as follows:

Nays: Folk, McGeehan, Moffatt and Shaffer.

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4730) passed.

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

H. B. 4731, Relating to requiring comprehensive drug awareness and prevention program in all public schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 248**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4731) passed.

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

H. B. 4732, Relating to performance metrics for the West Virginia Division of Highways; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 249**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4732) passed.

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

H. B. 4733, Relating to requiring the Commissioner of Highways to develop a statewide communications plan known as the Comprehensive Public Involvement Plan; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 250**), and there were—yeas 85, nays none, absent and not voting 15, with the absent and not voting being as follows:

Absent and Not Voting: Atkinson, Byrd, Cooper, Deem, Ellington, A. Evans, Ferro, Flanigan, Kurcaba, Lane, Marcum, Miller, Moore, Morgan and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4733) passed.

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

Second Reading

Com. Sub. for S. B. 10, Creating Unborn Child Protection from Dismemberment Abortion Act; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with an amendment pending, and the rule was suspended to permit the offering and consideration of the amendment on that reading.

Com. Sub. for H. B. 2826, Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; “Sarah Nott’s Law”; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4279, Relating to disposition of seized firearms; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4317, Limiting factors in parenting plans; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4324, Authorizing information sharing by Workforce West Virginia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4346, Relating to bear hunting and offenses and penalties; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4352, Relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time.

On motion of Delegate E. Nelson, the bill was amended on page two, section twenty-four, line six, after the word “exceed”, by striking out the word “three” and inserting in lieu thereof the word “two”.

The bill was the ordered to engrossment and third reading.

Com. Sub. for H. B. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4463, Permitting the practice of telemedicine; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4502, Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, section twenty-nine, line four, following the words “headquartered in”, by inserting the words “this state or”.

And,

On page one, section twenty-nine, line five, by striking out the words “this state” and inserting in lieu thereof the word “both”.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4505, Allowing Powerball winners to remain anonymous; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Howell, the bill was amended on page one, section fifteen-a, line one, after the word “powerball”, by inserting a comma and the words “mega millions, and hot lotto”.

The bill was then ordered to engrossment and third reading.

H. B. 4706, Relating to county board regional meetings; on second reading, coming up in regular order, was read a second time.

Delegates Ambler, Perry, Cooper, Moye, D. Evans, Wagner, Rowan, Wagner and Westfall moved to amend the bill on page two, section twenty-six-a, line fourteen, by striking out the words “Board Association” and inserting in lieu thereof, the words “Superintendent or his or her designee”.

And,

On page two, section twenty-six-a, lines fifteen and sixteen, by striking out the words “and the State Superintendent”.

On page two, section twenty-six-a, line sixteen, by striking out the word “association” and inserting in lieu thereof the word “superintendent”.

On page two, section twenty-six-a, line twenty, by striking out the word “association” and inserting in lieu thereof the word “School Superintendent”.

And,

On page two, section twenty-six-a, line twenty-four, by striking out the words “Board Association” and inserting in lieu thereof, the word “Superintendent”.

The question on the adoption of the amendment, the same was put and did not prevail.

An amendment to the bill, offered by Delegates Espinosa, Duke and Hamrick was reported by the Clerk.

Whereupon,

Delegate Espinosa asked and obtained unanimous consent that the amendment be withdrawn.

The bill was then ordered to engrossment and third reading.

First Reading

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

S. B. 558, Maintaining solvency of Unemployment Compensation Fund,

Com. Sub. for S. B. 597, Relating generally to Health Care Authority,

Com. Sub. for H. B. 2665, Relating to participation in Motor Vehicle Alcohol Test and Lock Program,

Com. Sub. for H. B. 2849, Creating the West Virginia Sentencing Commission,

Com. Sub. for H. B. 2963, Expanding the definition of kidnapping,

Com. Sub. for H. B. 4176, Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program,

Com. Sub. for H. B. 4183, Relating generally to reporting opioid overdoses,

Com. Sub. for H. B. 4225, Relating to patriotic displays at public buildings,

Com. Sub. for H. B. 4240, Relating to the Uniform Controlled Substances Act,

Com. Sub. for H. B. 4314, Prohibiting the sale of powdered or crystalline alcohol,

H. B. 4428, Clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified,

Com. Sub. for H. B. 4466, Relating to public school support,

Com. Sub. for H. B. 4480, Addiction Treatment Act of 2016,

Com. Sub. for H. B. 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran,

Com. Sub. for H. B. 4517, Limiting the ability of an agent under a power of attorney to take selfbenefiting actions,

Com. Sub. for H. B. 4561, Creating a special hiring process for West Virginia Division of Highways employees,

Com. Sub. for H. B. 4566, Relating to school personnel,

Com. Sub. for H. B. 4575, Creating criminal offenses relating to money laundering,

Com. Sub. for H. B. 4576, Increasing the penalties for transporting controlled substances into the state,

Com. Sub. for H. B. 4577, Creating an additional penalty for use of a firearm in furtherance of a drug offense,

H. B. 4578, Creating a criminal offense of conspiracy to violate the drug laws,

Com. Sub. for H. B. 4608, Requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice,

Com. Sub. for H. B. 4633, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday,

H. B. 4644, Relating to deleting subsection (e) therein which provides the sheriff to pay into the State Treasury all jury costs,

H. B. 4654, Relating to the Executive Secretary of the Board of Registered Professional Nurses,

H. B. 4655, Prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials,

Com. Sub. for H. B. 4659, Authorizing local health departments to bill health insurance plans for services,

Com. Sub. for H. B. 4660, Relating to the information required to be included in support of an application to the Public Service

Commission for a certificate of convenience and necessity for a water, sewer and/or storm water service project,

Com. Sub. for H. B. 4673, Providing for a crime for the theft, damage or release of deer from private game farms,

H. B. 4685, Relating to professional and occupational board members,

H. B. 4696, Creating the unlicensed practice review board,

H. B. 4726, Relating to coal mining generally,

H. B. 4734, Relating to mine subsidence insurance,

And,

H. B. 4735, Relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers.

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

Committee Reports

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Sobonya, Deem, Kessinger, Zatezalo, Shott, Marcum, Fleischauer, Shaffer and Fluharty:

H. B. 4736 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §47-26-2a, relating to the pawn of gift cards; defining gift card; and limiting the purchase, pawn, receipt, sale or exchange of a gift card with a pawnbroker.”

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Shott, Hanshaw, Ireland, Kessinger, Sobonya, Foster, Zatezalo, Lane and Rowe:

H. B. 4739 — “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto two new sections, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed Life Insurance Benefits Act; providing definitions; regulating insurer conduct; requiring insurers to perform an annual comparison of its insureds’ Policies, Retained Asset Accounts and Account Owners against a Death Master File; providing that the annual comparison of insureds’ Policies, Retained Asset Accounts and Account Owners against a Death Master File shall not apply to those accounts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of payment within eighteen months immediately preceding the Death Master File comparison; requiring reasonable steps to be taken to locate and contact beneficiaries or other authorized representatives regarding the insurer’s claims process; and authorizing the Insurance Commissioner to promulgate rules that may be reasonably necessary to implement the Unclaimed Life Insurance Benefits Act.”

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (H. B. 4739) was taken up for immediate consideration, read a first time and ordered to second reading.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Hanshaw, McCuskey, Foster, Weld, Fast, Overington, Folk, Shaffer, Moore, Byrd and Manchin:

H. B. 4738 — “A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, relating to the offense of driving

in an impaired state; establishing the offense of driving a vehicle while he or she is in an impaired state; establishing the offense of driving a vehicle while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent by weight; adding influence of substances in definition of impaired state; and providing for penalties.”

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

Your Committee on the Judiciary has had under consideration:

H. B. 4438, Relating to the involuntary examination of individuals experiencing a psychiatric emergency or mental illness,

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

Com. Sub. for H. B. 4438 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §27-5-2a; and to amend and reenact §27-5-3 of said code, all relating to the involuntary examination of individuals experiencing a psychiatric emergency or mental illness; authorizing physicians to execute a certificate directing that individuals found to be experiencing a psychiatric emergency to be held involuntarily for examination and treatment; defining psychiatric emergency; directing another physician, registered nurse or physician assistant to sign the certificate under oath stating that he or she has also examined the individual and concurs with the initial physician’s opinions; requiring the chief medical officer of the facility to provide notice of the involuntary detention to an individual’s spouse or one of the individual’s parents or guardians, if no spouse, or to an adult individual’s next of kin; authorizing law enforcement to take individuals into custody and to transport; directing notice to be provided to mental hygiene commissioners; authorizing mental hygiene commissioners to conduct hearings under certain W.Va. Code circumstances; requiring the mental health facility to file

an application for involuntary hospitalization pursuant to W.Va. Code §27-5-2a within seventy-two hours of the person arriving at the mental health facility; and authorizing individuals certificated to be experiencing a psychiatric emergency to be admitted to mental health facilities for involuntary examination and treatment.”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 4438) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4586, Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways,

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

Com. Sub. for H. B. 4586 — “A Bill amend and reenact §54-2-4 of the Code of West Virginia, 1931, as amended, relating to representation in condemnation proceedings where a property owner or other party is under a legal disability; providing that the court shall protect the rights of any person who is under a legal disability because he or she is a protect person, incarcerated, or whose ownership interest, lien, or other claim to property requires them to be a party in a condemnation action; providing that a protected person who is a party in a condemnation action may be represented by a conservator or guardian or by a limited guardian appointed by the court; providing that an incarcerated person who is a party in a condemnation action and has an attorney or committee shall be represented by the attorney or

committee; providing that an incarcerated person who is a party in a condemnation action who does not have an attorney or committee shall be represented by a court appointed attorney; providing that the court shall appoint a guardian ad litem to defend the interests of an unknown owner or owners of property subject to condemnation; clarifying that the statutory procedures for condemnation actions control; and authorizing payment for court appointed attorneys to be paid in an amount to be fixed by the court or judge, to be taxed as costs and paid by the applicant,”

With the recommendation that the committee substitute do pass.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4307, Clarifying that a firearm may be carried for self-defense in state parks, state forests and state recreational areas,

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

Com. Sub. for H. B. 4307 — “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to carrying a firearm for self-defense in a state park, state forest, state wildlife management area, or state rail trail, and providing an exception,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 4307) was taken up for immediate consideration, read a first time and ordered to second reading.

On motion for leave, a bill was introduced (Originating in the Committee on the Judiciary and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Weld, Hanshaw, McCuskey, Fleischauer, Kessinger, Sobonya, Summers and Zatezalo:

H. B. 4740 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-1-11b, relating to jury service; permitting that current members of the National Guard or Reserves may be excused from jury duty.”

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

Your Committee on the Judiciary has had under consideration:

H. B. 4542, Allowing persons with property within rural fire protection districts to opt out of fire protection coverage,

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

Com. Sub. for H. B. 4542 — “A Bill to amend and reenact §8-15-3 of the Code of West Virginia, 1931, as amended, relating to the imposition of fire fees on non-residents of a municipality who are users of that municipality’s fire service; capping the amount of such fees which can be imposed, providing for a referendum on this issue of fire service, and petition requirements for triggering the same,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 4542) was taken up for immediate consideration, read a first time and ordered to second reading.

On motions for leave, resolutions were introduced (Originating in the Committee on Government Organization and reported with the recommendation they be adopted, but that they each be referred to the Committee on Rules), which were read by their titles as follows:

By Delegates Howell, Arvon, Atkinson, Blair, Border, Cadle, Caputo, Faircloth, Hamrick, Hartman, Hill, Ihle, Lynch, McGeehan, Moffatt, J. Nelson, Pushkin, R. Smith, Sponaugle, Stansbury and P. White:

H. C. R. 93 — “Requesting the Joint Committee on Government and Finance study the Motor Vehicle Code.”

Whereas, Improvements in motor vehicle design and associated technologies have advanced, rendering parts of the Motor Vehicle Code obsolete since it was last amended; and

Whereas, The Legislature is committed to evaluating and modernizing the West Virginia Code, so that the laws are reasonable and not overly burdensome; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the Motor Vehicle Code; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And,

By Delegates Howell, Arvon, Atkinson, Blair, Border, Cadle, Caputo, Faircloth, Hamrick, Hartman, Hill, Ihle, Lynch, McGeehan, Moffatt, J. Nelson, Pushkin, R. Smith, Sponaugle, Stansbury and P. White:

H. C. R. 94 — “Requesting the Joint Committee on Government and Finance study the holdings of public property by departments, agencies, commissions, bureaus and boards of the state.”

Whereas, The Legislative Auditor reported in 2015 on the property holdings and maintenance of public properties under the Department of Administration; and

Whereas, The Legislative Auditor found certain deficiencies in building maintenance and repair, properties were purchased and remained vacant or in disrepair; and

Whereas, The Real Estate Division does not have a comprehensive inventory of publicly held property due to certain exemptions in the West Virginia Code; and

Whereas, Understanding what properties are held, occupied and available for use is critical so that the state can efficiently perform those tasks and functions essential for a responsible government; and

Whereas, The cost of maintaining publicly held property has continued to increase, straining the budget of the General Services Division and other agencies; and

Whereas, Developing a comprehensive inventory of publicly held buildings and property would aid in making decisions regarding purchasing or building new buildings, renovating existing buildings and budgeting for the maintenance and repair of existing buildings; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the holdings of public property by departments, agencies, commissions, bureaus and boards of the state; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the State Treasurer, the State Auditor, the Department of Administration and the Real Estate Division, the Department of Transportation and the Division of Highways, the Department of Education, the School Building Authority and the State Board of Education shall cooperate with the Legislature and provide information, access to personnel and access to all records necessary to effectuate the provisions of this study; and, be it

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

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

Your Committee on Government Organization has had under consideration:

H. B. 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library,

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

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

Your Committee on the Judiciary has had under consideration:

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

Com. Sub. for H. B. 4046 — “A Bill to amend and reenact article 2, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Administration; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies and commissions under Department of Administration to repeal certain legislative, procedural or interpretative rules that are no longer authorized or are obsolete; authorizing the Department of Administration to promulgate a legislative rule relating to the purchasing division; repealing Department of Administration legislative rule relating to the availability of state surplus buildings and equipment to charity food banks; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to benefit determination and appeal; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Defined Contribution System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Retirement System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick leave; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System; authorizing the Ethics Commission to promulgate a legislative rule relating to the public use of names or likenesses; repealing Ethics Commission legislative rule relating to advisory opinions; repealing Ethics Commission legislative rule relating to guidelines and standards for determining the existence of disqualifying financial interests; repealing Ethics Commission legislative rule relating to contributions; authorizing the Division of Personnel to promulgate a legislative rule relating to the administrative rule of the West Virginia Division of

Personnel; repealing State Building Commission procedural rule relating to procedural rules for meetings; repealing Public Employees Insurance Agency procedural rules relating to procedural rules for the Public Employees Insurance Agency Advisory Board; and repealing Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance.”

With the recommendation that the committee substitute do pass.

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

Your Committee on Government Organization has had under consideration:

H. B. 4616, Permitting county commissions the option of paying the salaries of county officials and their employees on a bi-weekly basis,

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

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

Your Committee on Finance has had under consideration:

H. B. 2704, Increasing sales and use taxes by one percent,

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

Com. Sub. for H. B. 2704 — “A Bill to amend and reenact §11-15-2, §11-15-3, §11-15-7a, §11-15-8, §11-15-8a and §11-15-9h of the Code of West Virginia, 1931, as amended; to amend said code by adding three new sections thereto, designated §11-15-8e, §11-15-8f and §11-15-9o; and to amend and reenact §11-15A-2 of said code, all relating to consumer sales and service taxes and use taxes generally;

including certain activities within definition of contracting; including contracting and certain payments within definition of ‘service’ and ‘selected service’; reducing rate of consumer sales and service taxes and conditioning reductions on certain events; removing reduced taxation of certain sales of mobile homes; removing exception for the imposition of tax on the value of labor relating to manufacture, sale or installation of modular dwellings; removing exemption from tax for certain professional services; removing the exception to application of tax contracting services; removing exemptions from tax for selected advertising services, certain memberships or services provided by certain health and fitness organizations, certain sales of computer hardware or software, electronic data processing services and products transferred electronically; reducing rate of use taxes and conditioning reductions on certain events; specifying effective dates; providing for emergency and legislative rules; and naming the act the West Virginia Tax Decrease Act of 2016,”

H. B. 4271, Ending discretionary transfers to the Licensed Racetrack Modernization Fund,

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

Com. Sub. for H. B. 4271 — “A Bill to amend and reenact §29-22A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending transfers to the Licensed Racetrack Modernization Fund; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2016; providing exceptions for recoupment of certain expenditures for eligible facility modernization improvements from the Licensed Racetrack Modernization Fund; and closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund,”

H. B. 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects,

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

Com. Sub. for H. B. 4435 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-11, relating to modernization and improvement of coal-fired boilers at electric power plants; providing procedure for expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects deemed just and reasonable and in the public interest; and providing rulemaking authority,”

And,

H. B. 4668, Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services,

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

Com. Sub. for H. B. 4668 — “A Bill to amend and reenact §11-13A-6 of the Code of West Virginia, 1931, as amended, relating to raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services from one fourth to one half; and directing State Auditor report of county special budgets to Joint Committee on Government and Finance,”

With the recommendation that the committee substitutes each do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, Com. Sub. for H. B. 2704 and Com. Sub. for H. B. 4271 were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

H. B. 4345, Repealing the West Virginia Permitting and Licensing Information Act,

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

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Byrd, Cooper, Deem, Ellington, Ferro, Flanigan, Kurcaba, Lane, Miller and Moore.

Remarks of Members

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Pushkin regarding S. B. 411, Creating Second Chance for Employment Act, be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Guthrie noted that she was absent when the vote was taken on Roll No. 229, and that had she been present, she would have voted “Yea” thereon.

Delegates Faircloth, Hamilton and McGeehan announced that they were absent when the vote was taken on Roll No. 236, and that had they been present, they would have voted “Yea” thereon.

Delegate Hamilton filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2704.

Delegate Frich filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 4739.

Delegate McGeehan filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4724.

Delegate Westfall filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4739.

Delegate B. White filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4739.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4473.

Delegate Hanshaw filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4739.

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 4180.

Delegate B. White filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. C. R. 36.

At 4:59 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, February 29, 2016.

MONDAY, FEBRUARY 29, 2016

FORTY-EIGHTH DAY

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

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

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

The Clerk proceeded to read the Journal of Saturday, February 27, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 4377, on Third Reading, House Calendar, to the Special Calendar.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 116 — “A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended, relating to increasing number of limited video lottery terminals allowed at retail locations; requiring Lottery Commission to conduct bid only open to current permit holders prior to September 1, 2016, for permits expiring June 30, 2021; and establishing procedure for bid process”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 411 — “A Bill to amend and reenact §61-11-26 of the Code of West Virginia, 1931, as amended, relating to the creation of the West Virginia Second Chance for Employment Act; defining terms; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies; defining ‘nonviolent felony’; providing exclusions to eligibility; establishing timing for filing a petition for expungement; creating petition requirements and court procedure for evaluating preliminary and final orders of expungement for nonviolent felonies; providing for preliminary orders of expungement; requiring a ten-year period under a preliminary order of expungement for a felony before one may obtain a final order of expungement; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; and making technical changes”; which was referred to the Committee on Industry and Labor then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 421 — “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of behavioral health severance and business privilege tax; specifying effective date of the termination; establishing method of payment of outstanding refund claims; generating replacement revenue stream by changing the durable medical goods sales tax exemption to home users only; specifying effective dates of this amendment; providing method to claim this exemption; and providing definitions for clarification.”

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 421) was taken up for immediate consideration, read a first time and ordered to second reading.

A message from the Senate, by

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

S. B. 455 — “A Bill to amend and reenact §29-22B-503 and §29-22B-504 of the Code of West Virginia, 1931, as amended, all relating to allowing a person to be both a limited video lottery operator and retailer”; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

S. B. 461 — “A Bill to amend and reenact §5B-2B-1, §5B-2B-2, §5B-2B-3, §5B-2B-4, §5B-2B-4a, §5B-2B-5, §5B-2B-6 and §5B-2B-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5B-2B-4b, all relating to West Virginia Workforce Development Board; updating West Virginia Workforce Investment Act to West Virginia Innovation and Opportunity Act; defining terms; creating West Virginia Workforce Development Board; providing for composition of West Virginia Workforce Development Board; setting forth requirements for board members; setting forth duties of board; updating reporting requirements; requiring open proceedings of board; and updating language”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 468 — “A Bill to amend and reenact §46A-6K-3 of the Code of West Virginia, 1931, as amended, relating

to allowing accrual of interest during rescission period on a loan where right of rescission applies, if the loan is not rescinded; and providing exclusion to the charging and payment of interest”; which was referred to the Committee on Banking and Insurance then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 542 — “A Bill to amend and reenact §17C-15-49 of the Code of West Virginia, 1931, as amended, relating generally to admissibility of certain evidence in a civil action for damages; allowing the admission of the nonuse of an adult motor vehicle occupant’s safety belt in violation of law on the issue of failure to mitigate damages; subjecting that evidentiary issue to West Virginia Rules of Evidence; prohibiting admission of evidence of failure to wear safety belt for comparative negligence purposes; providing for admission of evidence related to failure to wear safety belt for issue of mitigation of damages under certain circumstances; requiring expert evidence showing failure to wear safety belt in violation of this section be relevant to injuries or damages of plaintiff; permitting trier of fact to reduce amount of plaintiff’s recovery attributable to failure to wear safety belt after reductions for comparative negligence; limiting percentage of reduction of medical expenses for an adult vehicle occupant’s failure to wear safety belt to fifty percent; and clarifying that nothing is intended to limit a manufacturer from introducing evidence of an adult vehicle occupant’s failure to wear safety belt to defend the design, manufacture or crashworthiness of a product in any action claiming damages under a product liability theory”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 578 — “A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to protection of utility

workers from crimes against the person; defining ‘utility worker’; and establishing penalties”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 595 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10-15c; and to amend said code by adding thereto a new section, designated §18-7A-17b, all relating to retirement credit for members of the West Virginia National Guard; and establishing procedure for purchase of military service credit by members of certain retirement systems with current or prior service in the West Virginia National Guard”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 619 — “A Bill to amend and reenact §29A-3-5 and §29A-3-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §29A-3-19 and §29A-3-20; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating to legislative rulemaking; requiring agencies respond to public comments during the rule-making process; requiring five-year expiration provisions in all future rules promulgated by executive agencies and higher education, but with provided exceptions; requiring expiration provisions in all future modifications of rules affecting agencies and higher education, but with provided exceptions; providing that any rule containing an expiration provision shall remain in effect after the expiration date and until the rule is modified or repealed; requiring agencies to explain why or why not public comments were incorporated into the rule; providing that failure of an agency to adequately explain why or why not public comments were incorporated

into the rule is grounds for rejection of the rule; requiring additional information to be included when an agency submits proposed rules to the Legislative Rule-Making Review Committee, including an economic impact statement, detailed description of the purpose or objective of the rule, explanation of the statutory authority, public comments and written responses by the agency concerning those comments; requiring the agency's response address each issue and concern expressed by the comments received and whether the rule will be overly burdensome on business and industry by setting forth specific factors that must be addressed; requiring all executive branch agencies to review and evaluate all rules, guidelines, policies and recommendations with those any federal counterparts and determine if the state's rules, guidelines, policies and recommendations are more stringent; and requiring each agency to review each of its rules within four years to determine if its rules should be continued without change, modified or repealed, and to submit a report to the Legislative Rule-Making Review Committee"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 627 — "A Bill to amend and reenact §30-3A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7-23 of said code, all relating to permitting physicians to decline prescribing controlled substance in certain circumstances; limiting disciplinary action on medical license for not prescribing or discontinuing prescribing controlled substance in certain circumstances; precluding criminal action for not prescribing or discontinuing prescribing controlled substance in certain circumstances; and limiting liability for not prescribing or discontinuing prescribing controlled substance in certain circumstances"; which was referred to the Select Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 634 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7, §17B-7-8, §17B-7-9 and §17B-7-10, all relating to creation of the Second Chance Driver’s License Act; creating short title; setting forth legislative findings and purpose; defining terms; establishing program; directing the Director of the Division of Justice and Community Services to administer program; setting eligibility requirements to become program participant; requiring application from person wishing to participate; directing the director to coordinate with officials from courts and commissioner to verify total amount of unpaid court costs; setting deadlines for provision of information regarding unpaid court costs to director; directing how unreported court costs are to be handled; requiring notification to applicant of acceptance into program; directing the director to develop consolidated repayment schedule for participant; setting requirements for consolidated repayment schedule; permitting modification of consolidated repayment schedule; permitting hardship waiver; clarifying that participant is under no obligation to make separate or additional payments directly to court if those costs are included in consolidated repayment schedule; establishing moratorium on collection of unpaid court fees by a court or its designee while a participant is in good standing with the program; requiring monthly remittance of payments to director; directing issuance of certificate of compliance, certificate of noncompliance, program removal notice and program completion certificate under certain conditions; directing Division of Motor Vehicles to place stay or lift stay on suspension or revocation of participant’s driver’s license under certain conditions; permitting Division of Motor Vehicles to require retesting under certain circumstances; exempting participants from certain retesting fees and reinstatement fees; creating Second Chance Driver’s License Program Account; providing for administration of account; directing

deposit of funds into account; authorizing expenditure of funds from account for certain purposes; requiring Division of Justice and Community Services to collect and distribute unpaid court costs on a pro rata basis; and providing legislative and emergency rule-making authority”; which was referred to the Committee on Roads and Transportation then the Judiciary.

Resolutions Introduced

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

H. C. R. 95 — “Requesting that bridge number 322-10-28.14, currently known as the West Hamlin Bridge, carrying West Virginia Route 10 over the Guyandotte River in Lincoln County, West Virginia, be named the ‘Army SSG Arthur N. McMellon Memorial Bridge.’”

Whereas, Staff Sergeant Arthur N. McMellon was the seventh child born to Frank and Garnett McMellon of West Hamlin, Lincoln County, and attended Guyan Valley High School; and

Whereas, SSG Arthur N. McMellon had four brothers, Frank, Jr. of West Hamlin, Forrest of Barboursville, Gerald of Alum Creek and Jimmy of Star Route 10, near Barboursville, and three of the four also served in the military; and

Whereas, SSG Arthur N. McMellon saw combat action in the United States Army in Korea at the age of seventeen, where he was missing in action, once for 18 days but returned uninjured; and

Whereas, SSG Arthur N. McMellon never intended to make a career of the Army, but later reenlisted because he was unable to find a job in West Virginia and was deployed to a combat area in Vietnam; and

Whereas, While serving as a mess sergeant, SSG Arthur N. McMellon was able to scrounge up supplies for and serve a turkey

feast for 71 Vietnamese children who unexpectedly visited his First Division Company on a Thanksgiving Day; and

Whereas, SSG Arthur N. McMellon's letters home to his wife and mother described the debilitating heat and humidity endured by the troops in Vietnam, the intense fighting in the area where he was stationed near Ben Cat and his desire to be home; and

Whereas, While riding in a Jeep to secure supplies for his unit, SSG Arthur N. McMellon was killed December 1, 1965 by a Viet Cong grenade; and

Whereas, SSG Arthur N. McMellon was buried in Arlington National Cemetery on December 16, 1965; and

Whereas, Then Rep. Ken Hechler, D. W.Va., who arranged for the sergeant's burial at Arlington, said of him, "He showed that human kindness and love can shine through and can never be obscured by the muck and grime of a brutal war"; therefore, be it

Resolved by the Legislature of West Virginia:

That bridge number 322-10-28.14, currently known as the West Hamlin Bridge, carrying West Virginia Route 10 over the Guyandotte River, in Lincoln County, West Virginia, be named the "Army SSG Arthur N. McMellon Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "Army SSG Arthur N. McMellon Memorial Bridge"; and, be it

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

Delegates Ireland, R. Smith, McCuskey, Zatezalo and D. Evans offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 96 — “Requesting the Federal Energy Regulatory Commission (FERC) expedite the approval of six interstate natural gas pipeline projects in West Virginia.”

Whereas, The United States has benefited from the vast natural resources produced in West Virginia for more than 150 years; and

Whereas, Horizontal drilling in the Marcellus and Utica Shales has made West Virginia and the Appalachian Basin the most prolific producer of natural gas, accounting for eighty-five percent of our nation’s daily production; and

Whereas, More than 30,000 direct and indirect jobs are provided or supported by the natural gas industry statewide with an average annual salary in excess of \$40,000 annually; and

Whereas, The state’s Gross Domestic Product (GDP) from the production of natural gas and oil was in excess of \$3.9 billion dollars in 2014, with less than five percent of the known shale reserves permitted, West Virginia is blessed with hundreds of years of natural gas reserves; and

Whereas, The need to build natural gas pipeline infrastructure to new or underserved markets in the Northeast, Southeast and Mid-Atlantic regions of the country can now become a reality; and

Whereas, Six interstate natural gas pipeline projects are currently proposed for construction and will transport our abundant gas resources to market; and

Whereas, The following pipeline projects are critical to West Virginia: Rover Pipeline, Mountain Valley Pipeline, WB Xpress Pipeline, Leach Xpress Pipeline, Mountaineer Xpress Pipeline, Atlantic Coast Pipeline and the Supply Header Pipeline projects; and

Whereas, Building these proposed natural gas pipelines in West Virginia equates to \$5.7 billion in capital investment, more than 18,000

new construction jobs and \$61 million in property taxes during construction; and

Whereas, A recent statewide survey conducted by the West Virginia Oil and Natural Gas Association (WVONGA) found that more than seventy-five percent of West Virginia respondents support the construction of natural gas pipelines; and

Whereas, The FERC has primary jurisdiction over United States interstate natural gas pipeline projects and will make the final decision regarding project approval; therefore, be it

Resolved by the Legislature of West Virginia:

That the West Virginia House of Delegates hereby requests that the FERC, expedite the approval of these six interstate natural gas pipeline projects in West Virginia with speed so as to maximize West Virginia's natural gas resources, create thousands of good-paying jobs for West Virginia citizens, provide needed tax revenues to pay for government services and reduce America's dependence on foreign sources of energy.

Motions

Delegate Kelly submitted a written motion, under the provisions of House Rule 82, to discharge **H. B. 4280**, Permitting persons who are twenty-one years of age or older to operate or be a passenger on a motorcycle without a helmet, from the Committee on Roads and Transportation.

Delegate Cowles moved that the motion be tabled.

On this motion, Delegate Kelly demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 251**), and there were—yeas 51, nays 47, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Atkinson, Azinger, Bates, Blackwell, Boggs, Butler, Byrd, Cadle, Campbell, Caputo, Cooper, Eldridge, D. Evans, Faircloth, Ferro, Flanigan, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Kelly, Kessinger, Longstreth, Lynch, Marcum, McGeehan, Miley, Moffatt, Moore, Morgan, Moye, J. Nelson, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Romine, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Perdue and R. Smith.

So, a majority of the members present and voting having voted in the affirmative, the motion to table the motion to discharge prevailed.

Special Calendar

Third Reading

Com. Sub. for S. B. 10, Creating Unborn Child Protection from Dismemberment Abortion Act; on third reading, coming up in regular order, with an amendment pending, was reported by the Clerk.

Delegates Guthrie and Pushkin moved to amend the bill on page two, section one, line thirty-two, by striking out the period and inserting a comma and “or if the woman is a victim of incest or the individual is a victim of rape when the rape is reported to a law-enforcement agency.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 252**), and there were—yeas 16, nays 82, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hornbuckle, Longstreth, Manchin, Miley, Moore, Morgan, Pethtel, Pushkin, Rowe, Skinner and Sponaugle.

Absent and Not Voting: Kurcaba and Perdue.

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

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 253**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Fleischauer, Fluharty, Guthrie, Hornbuckle, Longstreth, Manchin, Moore, Morgan, Pethtel, Pushkin, Rowe and Skinner.

Absent and Not Voting: Perdue.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 10) passed.

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

Com. Sub. for S. B. 10 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-2O-1, relating to prohibiting certain abortions; defining terms; prohibiting dismemberment abortions; deeming violations by physicians and other licensed medical practitioners to be a breach of the standard of care and outside the scope of practice that is permitted by law; providing an exception; allowing for discipline from the applicable licensure board for that conduct, including, but not limited to, loss of professional license to practice for violation; constituting violations for nonphysician and nonlicensed medical practitioners as unauthorized practice of medicine and subject to criminal penalties; preserving existing legal remedies for violations; clarifying that no

penalty may be assessed against a patient; and providing for certain construction of this section.”

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

Com. Sub. for H. B. 2826, Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; “Sarah Nott’s Law”; on third reading, coming up in regular order, was read a third time.

Delegate Howell requested to be excused from voting on the passage of Com. Sub. for H. B. 2826 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 254**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge, Moffatt and Perdue.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2826) passed.

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

Com. Sub. for H. B. 4279, Relating to disposition of seized firearms; on third reading, coming up in regular order, was read a third time.

Delegate Byrd requested to be excused from voting on the passage of Com. Sub. for H. B. 4279 under the provisions of House Rule 49.

The Speaker replied that the passage of the bill may result in a direct personal or pecuniary interest to the Delegate and excused the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 255**), and there were—yeas 94, nays 3, absent and not voting 2, excused from voting 1, with the nays, excused from voting and absent and not voting being as follows:

Nays: Fluharty, McGeehan and Pushkin.

Excused from Voting: Byrd.

Absent and Not Voting: Longstreth and Perdue.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4279) passed.

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

Com. Sub. for H. B. 4317, Limiting factors in parenting plans; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 256**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Byrd, Flanigan, Fleischauer, Fluharty, Pushkin, Shaffer and Skinner.

Absent and Not Voting: Kelly, E. Nelson, Perdue and Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4317) passed.

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

H. B. 4324, Authorizing information sharing by Workforce West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 257**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Perdue.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4324) passed.

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

H. B. 4346, Relating to bear hunting and offenses and penalties; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 258**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Flanigan, Lynch and Marcum.

Absent and Not Voting: Kelly, Kurcaba and Perdue.

So, a majority of members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4346) passed.

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

H. B. 4346 — “A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to bear hunting; providing that training dogs on or pursuing bears with dogs is hunting bear;

providing that it is unlawful to kill, attempt to kill, or wound or attempt to wound any bear using bait; providing examples of what constitutes bait; providing period of time after removal of bait an area is still considered baited; providing that it is unlawful to feed bears at any time; providing that it is unlawful to transport or possess any part of a bear not lawfully tagged; deleting certain bear hunting prohibitions; revising provisions relating to bears damaging or destroying property; permitting Division of Natural Resources officer or designated wildlife biologist to issue bear depredation permit or authorize hunting of bears to owners or lessees suffering damage to real or personal property from bears; permitting officer or wildlife biologist to recommend other measures to end or minimize property damage by bears; providing requirements for bear damage reports by the Division of Natural Resources for bear damage claims; providing bear damage claim limit for property covered by insurance policy; providing for establishment of procedures by Division of Natural Resources to issue bear depredation permits and organizing bear hunts; and decreasing criminal penalties.”

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

On this question, the yeas and nays were taken (**Roll No. 259**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Perdue.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4346) takes effect from its passage.

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

Com. Sub. for H. B. 4352, Relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 260**), and there were—yeas 53, nays 46, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blackwell, Boggs, Butler, Byrd, Cadle, Campbell, Caputo, Cooper, Deem, Eldridge, A. Evans, Ferro, Flanigan, Fleischauer, Fluharty, Frich, Guthrie, Hamilton, Hartman, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, O'Neal, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, R. Smith, Sponaugle, Trecost, Wagner and P. White.

Absent and Not Voting: McCuskey.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4352) passed.

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

At 2:29 p.m., on motion of Delegate Cowles, the House of Delegates recessed for thirty minutes.

Delegate Manchin arose to inquire about when members can obtain a copy of a bill. The Speaker replied that members are entitled to a copy of a bill any time it is available.

Com. Sub. for H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 261**), and there were—yeas 77, nays 21, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Anderson, Arvon, Azinger, Cowles, Deem, Faircloth, Folk, Hill, Howell, Ihle, Kessinger, Kurcaba, Lane, McGeehan, Miley, J. Nelson, Overington, Shaffer, Stansbury, Upson and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: McCuskey and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4377) passed.

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

Com. Sub. for H. B. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 262**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Ihle, Lynch, Marcum and Pushkin.

Absent and Not Voting: McCuskey and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4448) passed.

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

Com. Sub. for H. B. 4463, Permitting the practice of telemedicine; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 263**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: McCuskey and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4463) passed.

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

Com. Sub. for H. B. 4502, Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 264**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast, Flanigan and Waxman.

Absent and Not Voting: McCuskey and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4502) passed.

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

Com. Sub. for H. B. 4502 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-1-29, relating to reciprocity agreements with contiguous states and the District of Columbia; authorizing the governor to enter

into and renew reciprocity agreements with the governors and other appropriate state governmental agencies from states that share contiguous borders with this state, and the District of Columbia, to establish regulations, licensing requirements and taxation for small businesses headquartered in this state or in contiguous states or the District of Columbia that conduct business in both this state and the contiguous state; providing the governor discretionary power to delegate such authority to the Attorney General or secretary of an executive branch department to negotiate and enter into such reciprocity agreements on behalf of the governor; requiring any reciprocity agreement that impacts or affects taxation, either the receipt or payment thereof, to be approved by Legislative act; and defining terms.”

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

Com. Sub. for H. B. 4505, Allowing powerball winners to remain anonymous; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 265**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fluharty, Marcum and Rowe.

Absent and Not Voting: McCuskey and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4505) passed.

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

Com. Sub. for H. B. 4505 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to allowing powerball, mega millions, and hot lotto winners to remain anonymous; and providing for an exemption under the Freedom of Information Act for powerball winner information.”

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

H. B. 4706, Relating to county board regional meetings; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 266**), and there were—yeas 65, nays 33, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ambler, Boggs, Byrd, Campbell, Caputo, Cooper, Eldridge, D. Evans, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, Phillips, Reynolds, Rodighiero, Shaffer, Skinner, Sponaule, Trecost and P. White.

Absent and Not Voting: McCuskey and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4706) passed.

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

Second Reading

S. B. 558, Maintaining solvency of Unemployment Compensation Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Delegate Manchin was recognized and moved to reconsider the action of the House whereby the motion to discharge H. B. 4280 was laid upon the table.

The Speaker ruled the motion out of order, stating House Rule 58.

Delegate Manchin then moved to take the motion to discharge H. B. 4280 from the table.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 267**), and there were—yeas 46, nays 52, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Bates, Blackwell, Boggs, Byrd, Cadle, Campbell, Caputo, Eldridge, Faircloth, Ferro, Flanigan, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Kelly, Lane, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: McCuskey and Walters.

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

Com. Sub. for S. B. 597, Relating generally to Health Care Authority; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk on page one, section twenty-six, line five, by striking out “Health care providers shall be subject to the antitrust guidelines of the federal trade commission and the department of justice.”

Delegate Folk asked unanimous consent to commit the bill to the Committee on the Judiciary, which consent was not given, objections being heard.

Delegate Folk then moved to commit the bill to the Committee on the Judiciary.

Delegate Miller moved to table the motion to commit Com. Sub. for S. B. 597.

Delegate Rohrbach requested to be excused from voting on Com. Sub. for S. B. 597 under the provisions of House Rule 49.

The Speaker replied that Delegate Rohrbach did exhibit direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

On the motion to table to motion to commit, Delegate McGeehan demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 268**), and there were—yeas 56, nays 42, absent and not voting 1, excused from voting 1, with the nays, excused from voting and absent and not voting being as follows:

Nays: Azinger, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Fast, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Ihle, Kelly, Kurcaba, Lane, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moffatt, Moore, Moye, Perry, Pethtel, Pushkin, Rodighiero, Rowe, Shaffer, Shott, Skinner, P. Smith, Sponaule, Trecost, Walters and P. White.

Excused from Voting: Rohrbach.

Absent and Not Voting: McCuskey.

So, a majority of the members present and voting having voted in the affirmative, the motion to table the motion to commit prevailed.

On motion of Delegate Ellington, the amendment was amended page one, section twenty-six, line five, by striking out the following sentence, “Health care providers shall be subject to the antitrust guidelines of the federal trade commission and the department of justice.”

Delegate Pushkin moved to amend the amendment on page one, at the end of section twenty-six, by striking out the period, inserting a colon and the following proviso:

“Provided, That this immunity, the exemption from the antitrust action under state and federal antitrust law set forth in this section, and all of the provisions of section twenty-eight of this article shall not apply to a hospital merger, acquisition, or combination that is the subject of a proceeding pending before the authority, the Attorney General, of the Federal Trade Commission at the time of passage of the amendments to this article during the 2016 regular legislative session.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 269**), and there were—yeas 17, nays 81, absent and not voting 1, excused 1, with the yeas and absent and not voting and excused being as follows:

Yeas: Blackwell, Caputo, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Lane, Miley, Moore, Pethtel, Pushkin, Shaffer, Shott, Skinner, P. Smith and Sponaugle.

Absent and Not Voting: McCuskey.

Excused from Voting: Rohrbach.

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

The bill was then ordered to third reading.

Com. Sub. for H. B. 2665, Relating to participation in Motor Vehicle Alcohol Test and Lock Program; on second reading, coming up in regular order, was read a second time.

Delegate Sponaugle moved to amend the bill on page one, section two-b, lines eight and nine, by striking out the words “and with an alcohol concentration in his or her blood of twelve hundredths of one percent or less” and the comma.

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

The yeas and nays having been ordered, they were taken (**Roll No. 270**), and there were—yeas 29, nays 69, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Blackwell, Byrd, Cadle, Caputo, Cowles, Duke, Eldridge, Ferro, Flanigan, Fleischauer, Guthrie, Hamilton, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, McGeehan, Moffatt, Moore, Morgan, Pethtel, Pushkin, Reynolds, Rodighiero, Shaffer and Sponaugle.

Absent and Not Voting: Hartman and McCuskey.

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

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 2704, West Virginia Consumer Sales and Service Use tax; on second reading, coming up in regular order, was read a second time.

Delegate Cowles asked unanimous consent to advance the bill the third reading with the amendments pending and the right to amend on that reading, which consent was not given, objections being heard.

Delegate Miley was recognized and moved to lay the bill upon the table.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 271**), and there were—yeas 46, nays 53, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Ireland, Kelly, Kurcaba, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Stansbury, Trecost, Walters, B. White and P. White.

Absent and Not Voting: McCuskey.

So, a majority of the members present and voting not having voted in the affirmative, the motion did not prevail.

Delegate Cowles moved to advance the bill to third reading with the amendments pending and the right to amend on third reading.

Delegate Cowles then withdrew his motion.

Unanimous consent having been obtained, the bill was then advanced to third reading with the amendments pending and further right to amend and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 2849, Creating the West Virginia Sentencing Commission; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2963, Expanding the definition of kidnapping; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4176, Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4183, Relating generally to reporting opioid overdoses; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4225, Relating to patriotic displays at public buildings; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4240, Relating to the Uniform Controlled Substances Act; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page three, section four hundred six-b, lines thirty-nine and forty, by striking out subsection (e) in its entirety.

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

The yeas and nays having been ordered, they were taken (**Roll No. 272**), and there were—yeas 20, nays 76, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Canterbury, Caputo, Flanigan, Fleischauer, Fluharty, Folk, Hill, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, McGeehan, Moore, Pushkin, Shaffer, Skinner, Sponaugle, Stansbury and Upson.

Absent and Not Voting: Guthrie, McCuskey, E. Nelson and Westfall.

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

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4248, Relating to methadone regulation; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amend and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4271, Ending discretionary transfers to the Licensed Racetrack Modernization Fund; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4307, Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas; on second reading, coming up in regular order, was read a second time, advanced to third reading with an amendment pending and the right to offer further amendments, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4314, Prohibiting the sale of powdered or crystalline alcohol; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4428, Clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4438, Relating to the involuntary examination of individuals experiencing a psychiatric emergency or

mental illness; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4466, Relating to public school support; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4480, The Ryan Brown Addiction Treatment Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4486, Terminating the Behavioral Health Severance and Business Privilege Tax; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4500, Oil and Gas Royalty Payment and Transparency Act of 2016; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4517, Limiting the ability of an agent under a power of attorney to take self-benefiting actions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4542, Allowing persons with property within rural fire protection districts to opt out of fire protection coverage; on second reading, coming up in regular order, was read a second time,

advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4561, Creating a special hiring process for West Virginia Division of Highways employees; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4566, Relating to school personnel; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4575, Creating criminal offenses relating to money laundering; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4576, Increasing the penalties for transporting controlled substances into the state; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page one, line eighteen, following the period, by inserting a new subdivision (5) to read as follows:

“(5) Notwithstanding subdivision (1) of this subsection, for marihuana, or substances defined pursuant to subdivision (27) subsection (d), section 204, article two, shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than one year nor more than five years, or fined not more than \$15,000, or both.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 273**), and there were—yeas 36, nays 61, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blair, Byrd, Campbell, Canterbury, Caputo, Cowles, Eldridge, Flanigan, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hill, Hornbuckle, Ihle, Kurcaba, Lynch, Manchin, McGeehan, Moffatt, Moore, Morgan, J. Nelson, Perdue, Perry, Pushkin, Reynolds, Rowe, Skinner, Sponaugle, Stansbury, Statler, Upson and Wagner.

Absent and Not Voting: Deem, McCuskey and Westfall.

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

There being no further amendments, the bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 4577, Creating an additional penalty for use of a firearm in furtherance of a drug offense; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4578, Creating a criminal offense of conspiracy to violate the drug laws; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4608, Requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4625, Redirecting certain racing and gaming revenues from greyhound development funds to the State Road Fund; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4633, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of

the circuit court and who reaches his or her eighteenth birthday; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4644, Relating to jury fees; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4654, Relating to the Executive Secretary of the Board of Registered Professional Nurses; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4655, Prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Ellington, the bill was amended page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §33-25E-2 the Code of West Virginia, 1931, as amended, be amended be amended and reenacted; and that said code be amended by adding thereto a new section, designated §33-25E-5, all to read as follows:

ARTICLE 25E. PATIENTS’ EYE CARE ACT.

§33-25E-2. Definitions.

For the purposes of this article:

(1) ‘Commissioner’ means the Insurance Commissioner of West Virginia.

(2) ‘Contractual discount’ means a percentage reduction from a provider’s usual and customary rate for covered services and materials required under a participating provider agreement.

(3) ‘Covered services’ means services for which reimbursement from the insurer or vision care plan or vision care discount plan is provided to a vision care provider by an enrollee’s plan contract, or for which a reimbursement would be available but for the application of the enrollee’s contractual plan limitations of deductibles, copayments, or coinsurance, regardless of how the benefits are listed in an enrollee’s benefit plan’s definition of benefits.

(4) ‘Covered materials’ means materials for which reimbursement from the insurer, vision care plan or vision care discount plan is provided to a vision care provider by an enrollee’s plan contract, or for which a reimbursement would be available but for the application of the enrollee’s contractual limitations of deductibles, copayments, or coinsurance.

~~(a)~~ (5) ‘Covered person’ means an individual enrolled in a health benefit plan or an eligible dependent of that person.

(6) ‘Enrollee’ means any individual enrolled in a health care plan, vision care plan or vision care discount plan provided by a group, employer or other entity that purchases or supplies coverage for a vision care plan or vision care discount plan.

~~(b) ‘Eye care provider’ means an optometrist or ophthalmologist licensed by the State of West Virginia.~~

(7) ‘Eye care provider’ means a licensed doctor of optometry practicing under the authority of article eight, chapter thirty of this code or a licensed medical physician specializing in ophthalmology licensed in West Virginia to practice medicine and surgery under the authority of article three, chapter thirty of this code or osteopathy under article fourteen, chapter thirty of this code.

~~(c)~~ (8) ‘Eye care benefits’ means coverage for the diagnosis, treatment and management of eye disease and injury.

~~(d)~~ (9) ‘Health benefit policy’ means any individual or group plan, policy or contract providing medical, hospital or surgical coverage

issued, delivered, issued for delivery or renewed in this state by an insurer, after January 1, 2001. It does not include credit accident and sickness, long-term care, Medicare supplement, champus supplement, disability or limited benefits policies.

~~(e) 'Insurer' means any health care corporation, health maintenance organization, accident and sickness insurer, nonprofit hospital service corporation, nonprofit medical service corporation or similar entity:~~

(10) 'Insurer' has the same meaning ascribed to it in section one, article forty-five of this chapter.

(11) 'Materials' means ophthalmic devices including, but not limited to, lenses, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens mounting apparatus, prisms, lens treatments and coatings, contact lenses, and prosthetic devices to correct, relieve, or treat defects or abnormal conditions of the human eye or its adnexa.

(12) 'Services' means the professional work performed by an eye care provider.

(13) 'Subcontractor' means any company, group or third party entity including, but not limited to, agents, servants, partially- or wholly-owned subsidiaries and controlled organization that is contracted by the insurer, vision care plan or vision care discount plan to supply services or materials for an eye care provider or enrollee to fulfill the benefit plan of an insurer, vision care plan or vision care discount plan.

~~(f)~~ (14) 'Vision care benefits' means benefits for the refraction of the eyes and other optical benefits.

(15) 'Vision care discount plan' means a business arrangement or contract governed by the provisions of this chapter in which a person, in exchange for fees, dues, charges or other consideration, offers access

for its plan members to providers of eye care or ancillary services and the right to receive discounts on eye care or ancillary services provided under the discount vision care plan from those providers.

(16) ‘Vision care plan’ means an entity that creates, promotes, sells, provides, advertises or administers, an integrated or stand-alone vision benefit plan, or a vision care insurance policy or contract which provides vision benefits to an enrollee pertaining to the provision of covered services or covered materials.

§33-25E-5. Noncovered discounts.

(a) No agreement between an insurer, vision care plan or vision care discount plan and an eye care provider may seek to or require that an eye care provider provide services or materials at a fee limited or set by the insurer, vision care plan or vision care discount plan unless the services or materials are reimbursed as covered services or covered materials under the contract.

(1) An eye care provider may not charge more for services and materials that are noncovered services or noncovered materials to an enrollee of a vision care plan or insurer than his or her usual and customary rate for such services and materials.

(2) Reimbursements paid by an insurer, vision care plan, or vision care discount plan for covered services and covered materials, regardless of supplier or optical lab used to obtain materials, shall be reasonable, shall be clearly listed on a fee schedule that is made available to the vision care provider prior to accepting a contract from the insurer, vision care plan or vision discount plan and shall not provide nominal reimbursement or advertise services and materials to be covered with additional copay or coinsurance if the health plan, vision care plan or vision care discount plan do not reimburse for the services or materials in order to claim that services and materials are covered services and materials.

(3) Insurers, vision care plans and vision care discount plans shall not publish, disseminate or falsely represent the benefits that are provided to groups, employers or individual enrollees as a means of selling coverage to or communicating benefit coverage to enrollees.

(4) All provisions in this section shall apply to any successors in interest of an insurer, vision care plan, or vision care discount plan and shall apply to any subcontractors that are used by an insurer, vision care plan or vision care discount plan to supply materials or services to an eye care provider or enrollee and be subject to all applicable penalties as provided in this section.

(c) No agreement between an insurer, vision care plan or vision care discount and a vision care provider may require that an eye care provider must participate with or be credentialed by any specific vision care plan or vision care discount plan as a condition of participation in the health care network of the insurer to provide covered medical services to its enrollees.

(1) Any insurer issuing or renewing a health benefit plan, vision care plan or vision care discount plan issued or renewed which provides coverage for services rendered by an eye care provider shall provide the same reimbursement for services to optometrists as allowed for those services rendered by physicians or osteopaths.

(2) An insurer may not require an optometrist to meet terms and conditions that are not required of a physician or osteopath as a condition for participation in its provider network for the provision of services that are within the scope of practice of an optometrist.

(3) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide their licensed health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan where the subcontracted provider will bill the managed care plan or subscriber or enrollee directly for the subcontracted services, the subcontract agreement must meet all requirements of this section and that the subcontract agreements shall be filed with the commissioner.

(4) The provisions of subdivisions (1), (2) and (3) of this section also apply to any agreements an insurer enters into to provide services covered under the health benefit plan, vision care plan or vision care discount plan.

(d) It is an unfair trade practice for an insurer that offers multiple vision benefit plans or multiple vision discount plans to require an eye care provider, as a condition of participation in a vision benefit plan or vision discount plan of the insurer, to participate in any of the insurer's other vision benefit plans or vision discount plans. In addition to the proceedings and penalties provided in this chapter for violation of this provision, a contract violating this subsection is void.

(e) An insurer, vision care plan or vision care discount plan may not change or alter an agreement entered into with an eye care provider without performing the following steps:

(1) Sending a certified letter detailing proposed changes to the eye care provider;

(2) Having a face-to-face meeting to discuss proposed changes if requested by an eye care provider;

(3) An eye care provider either agrees or does not agree to the proposed changes. If the changes to the agreement are not agreed to by the eye care provider, the current agreement shall continue and the insurer, vision care plan or vision care discount plan may not remove the eye care provider from a panel or plan for not accepting the changes to the agreement; and

(4) A new agreement is required to be established and agreed upon after three or more material changes are made to an existing agreement from an insurer, vision care plan or vision care discount plan.

(f) No agreement between an insurer, vision care plan or vision care discount plan and an eye care provider may restrict or limit, either directly or indirectly, the vision care provider's choice of sources and

suppliers of services or materials or use of optical labs provided by the eye care provider to an enrollee.

(g) No insurer, vision care plan or vision care discount plan may change the terms, discounts or reimbursement rates contained in the agreement, regardless of supplier or fabricating lab used to supply materials, without a signed acknowledgement of written agreement from the vision care provider.

(h) A person adversely affected by a violation of this section may bring action in a court of competent jurisdiction for injunctive relief against the insurer, vision care plan or vision care discount plan and, upon prevailing, may recover monetary damages of no more than \$1,000 for each instance found to be in violation plus attorney's fees and costs.

(i) In a fiscal year, no insurer, vision care plan or vision care discount plan may charge back or otherwise recoup administrative fees or other amounts from an eye care provider in a total amount of more than three percent of the payments received by the eye care provider from the insurer, vision care plan or vision care discount plan for providing services to enrollees without the written agreement of the eye care provider.

(j) The Insurance Commissioner of West Virginia may seek an injunction against an insurer, vision care plan or vision care discount plan in a court of competent jurisdiction for violation of this section.

(k) The requirements of this section apply to insurer, vision care plan or vision care discount plan policies, contracts, addendums and certificates executed, delivered, issued for delivery, continued or renewed in the State of West Virginia.

(1) No insurer, vision care plan or vision care discount plan contract may be longer than two years from the date that it was first signed.

(2) No insurer, vision care plan or vision care discount plan may construe recredentialing as recontracting with a vision care provider.

(l) An insurer, vision care plan or vision care discount plan may not discriminate against any provider who is located within the geographic coverage area of the insurer, vision care plan or vision care discount plan and who is willing to meet the terms and conditions for participation established by the insurer, including West Virginia Medicaid programs and Medicaid partnerships.

(m) This section is effective upon passage and includes all vision care plans and discount card plans upon renewal of enrollee's current plan or upon issue of a new plan to any enrollee."

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4659, Authorizing local health departments to bill health insurance plans for services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4660, Relating to the information required to be included in support of an application to the Public Service Commission for a certificate of convenience and necessity for a water, sewer and/or stormwater service project; on second reading, coming up in regular order, was read a second time.

Delegate Skinner moved to amend the bill on page four, section eleven, lines seventy-eight through eighty-eight, by striking out subsection (j) in its entirety.

And,

Re-lettering the subsequent subsections accordingly.

Delegate Hanshaw requested to be excused from voting on Com. Sub. for H. B. 4660 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

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

The yeas and nays having been ordered, they were taken (**Roll No. 274**), and there were—yeas 35, nays 60, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Fast, Ferro, Fleischauer, Fluharty, Folk, Frich, Guthrie, Hartman, Hicks, Hornbuckle, Lane, Lynch, Manchin, Miley, Moye, Perdue, Perry, Phillips, Pushkin, Reynolds, Rodighiero, Skinner, P. Smith, Sponaugle, Statler, Trecoast and Upson.

Absent and Not Voting: Deem, Marcum, McCuskey, Moore and Westfall.

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

There being no further amendments, the bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 4662, Permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 4673, Providing for a crime for the theft, damage or release of deer from private game farms; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4685, Relating to professional and occupational board members; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4696, Creating the unlicensed practice review board; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4726, Relating to coal mining generally; on second reading, coming up in regular order, was read a second time.

On motion of Delegate R. Smith, the bill was amended on page two, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended, be repealed; that §16-4C-6c of said code be amended and reenacted; that §22-1-7 of said code be amended and reenacted; that §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a, §22-3-30a of said code be amended and reenacted; that said code be amended by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37, §22-3-38 and §22-3-39; that §22-11-6 of said code be amended and reenacted; that §22A-1-13, §22A 1 14, §22A-1-15, §22A-1-31 and §22A-1-35 of said code be amended and reenacted; that §22A-1A-2 of said code be amended and reenacted; that §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55, §22A-2-66 and §22A-2-77 of said code be amended and reenacted; and that §22A-7-7 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-6c. Certification requirements for emergency medical technician industrial mining.

(a) Commencing July 1, ~~2014~~ 2016, an applicant for certification as an emergency medical technician industrial mining shall:

- (1) Be at least eighteen years old;

(2) Apply on a form prescribed by the ~~Commissioner~~ Director of Miners' Health, Safety and Training;

(3) Pay the application fee;

(4) Possess a valid cardiopulmonary resuscitation (CPR) certification;

(5) Successfully complete an emergency medical technician-~~industrial~~ mining education program authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification; and

(6) Successfully complete emergency medical technician-~~industrial~~ mining cognitive and skills examinations authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification.

(b) The emergency medical technician ~~industrial~~ mining certification is valid for three years.

(c) A certified emergency medical technician ~~industrial~~ mining is ~~only authorized to~~ may only practice during his or her regular employment on ~~industrial~~ mining property. ~~For the purposes of this section, "industrial property" means property being used for production, extraction or manufacturing activities.~~

(d) To be recertified as an emergency medical technician ~~industrial~~ mining, a certificate holder shall:

(1) Apply on a form prescribed by the ~~Commissioner~~ Director of Miners' Health, Safety and Training.

(2) Pay the application fee;

(3) Possess a valid cardiopulmonary resuscitation (CPR) certification;

(4) Successfully complete one of the following:

(A) A one-time thirty-two hour emergency medical technician-~~industrial~~ mining recertification course authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification; or

(B) Three annual eight-hour retraining and testing programs authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification; and

(5) Successfully complete emergency medical technician-~~industrial~~ mining cognitive and skills recertification examinations authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification.

~~(e) Commencing July 1, 2014, the certification for emergency medical technician-miner, also known as emergency medical technician-mining, shall be known as the certification for emergency medical technician-industrial, and the certification is valid until the original expiration date, at which time the person may recertify as an emergency medical technician-industrial miner pursuant to this section.~~

~~(f)~~(e) The education program, training, courses, and cognitive and skills examinations required for certification and recertification as an emergency medical technician-miner, also known as emergency medical technician ~~industrial~~ mining, in existence on January 1, 2014, shall remain in effect for the certification and recertification of emergency medical technician-industrial until they are changed by legislative rule by the commissioner in consultation with the board of Miner Training, Education and Certification.

~~(g)~~(f) The administration of the emergency medical technician ~~industrial~~ mining certification and recertification program by the ~~Commissioner~~ Director of Miners' Health, Safety and Training shall be done in consultation with the Board of Miner Training, Education and Certification.

~~(h)~~(g) The ~~Commissioner~~ Director of Miners' Health, Safety and Training shall propose rules for legislative approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code, in consultation with the Board of Miner Training, Education and Certification, and may propose emergency rules, to:

(1) Establish emergency medical technician-~~industrial~~ mining certification and recertification courses and examinations;

(2) Authorize providers to administer the certification and recertification courses and examinations, including mine training personnel, independent trainers, community and technical colleges, and Regional Educational Service Agencies (RESA): *Provided*, That the mine training personnel and independent trainers must have a valid cardiopulmonary resuscitation (CPR) certification and must be an approved MSHA or OSHA certified instructor;

(3) Establish a fee schedule: *Provided*, That the application fee may not exceed \$10 and there shall be no fee for a certificate; and

(4) Implement the provisions of this section.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 1. DEPARTMENT OF ENVIRONMENTAL PROTECTION.

§22-1-7. Offices within division.

Consistent with the provisions of this article, the Secretary shall, at a minimum, maintain the following offices within the division:

(1) The Office of Abandoned Mine Lands and Reclamation, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of article two of this chapter;

(2) The Division of Mining and Reclamation, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary the provisions of articles three and four of this chapter;

(3) The Division of Air Quality, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of article five of this chapter;

(4) The Office of Oil and Gas, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of articles six, seven, eight, nine and ten of this chapter; and

(5) The Division of Water and Waste Management, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of articles eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty of this chapter; ~~and.~~

~~(6) The Office of Explosives and Blasting, which is charged, at a minimum, with administering and enforcing, under the supervision of the director, the provisions of article three-a of this chapter.~~

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-2. Legislative findings and purpose; jurisdiction vested in Division of Environmental Protection; authority of ~~director~~ secretary; inter-departmental cooperation.

(a) The Legislature finds that it is essential to the economic and social well-being of the citizens of the State of West Virginia to strike

a careful balance between the protection of the environment and the economical mining of coal needed to meet energy requirements.

(1) Further, the Legislature finds that there is great diversity in terrain, climate, biological, chemical and other physical conditions in parts of this nation where mining is conducted; that the State of West Virginia in particular needs an environmentally sound and economically healthy mining industry; and ~~by reason of the above~~ therefor it may be necessary for the ~~director~~ secretary to promulgate rules which vary from federal regulations as is provided for in sections 101 (f) and 201 (c)(9) of the federal Surface Mining Control and Reclamation Act of 1977, as amended, 'Public Law 95-87'.

(2) Further, the Legislature finds that unregulated surface coal mining operations may result in disturbances of surface and underground areas that burden and adversely affect commerce, public welfare and safety by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural and forestry purposes; by causing erosion and landslides; by contributing to floods; by polluting the water and river and stream beds; by destroying fish, aquatic life and wildlife habitats; by impairing natural beauty; by damaging the property of citizens; by creating hazards dangerous to life and property; and by degrading the quality of life in local communities, all where proper mining and reclamation is not practiced.

(3) Further, the Legislature finds that the reasonable control of blasting associated with surface mining within the State of West Virginia is in the public interest and will promote the protection of the citizens of the State of West Virginia and their property without sacrificing economic development. It is the policy of the State of West Virginia, in cooperation with other governmental agencies, public and private organizations, and the citizens of this state, to use reasonable means and measures to prevent harm from the effects of blasting to its property and citizens.

(b) Therefore, it is the purpose of this article to:

(1) Expand the established and effective statewide program to protect the public and the environment from the adverse effects of surface-mining operations;

(2) Assure that the rights of surface and mineral owners and other persons with legal interest in the land or appurtenances to land are adequately protected from ~~such~~ the operations;

(3) Assure that surface-mining operations are not conducted where reclamation as required by this article is not feasible;

(4) Assure that surface-mining operations are conducted in a manner to adequately protect the environment;

(5) Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface-mining operations;

(6) Assure that adequate procedures are provided for public participation where appropriate under this article;

(7) Assure the exercise of the full reach of state common law, statutory and Constitutional powers for the protection of the public interest through effective control of surface-mining operations; ~~and~~

(8) Assure that the coal production essential to the nation's energy requirements and to the state's economic and social well-being is provided; and

(9) Vest in the secretary the authority to enforce all of the laws, regulations and rules established to regulate blasting consistent with the authority granted in sections thirty-four through thirty-nine of this article.

(c) In recognition of these findings and purposes, the Legislature ~~hereby~~ vests authority in the ~~director~~ secretary of the Department of Environmental Protection to:

(1) Administer and enforce the provisions of this article as it relates to surface mining to accomplish the purposes of this article;

(2) Conduct hearings and conferences or appoint persons to conduct them in accordance with this article;

(3) Promulgate, administer and enforce rules pursuant to this article;

(4) Enter into a cooperative agreement with the Secretary of the United States Department of the Interior to provide for state regulation of surface-mining operations on federal lands within West Virginia consistent with section 523 of the federal Surface Mining Control and Reclamation Act of 1977, as amended; and

(5) Administer and enforce rules promulgated pursuant to this chapter to accomplish the requirements of programs under the federal Surface Mining Control and Reclamation Act of 1977, as amended.

(d) The ~~director~~ secretary of the Department of Environmental Protection and the director of the Office of Miners' Health, Safety and Training shall cooperate with respect to each agency's programs and records to effect an orderly and harmonious administration of the provisions of this article. The ~~director~~ secretary of the Department of Environmental Protection may avail himself or herself of any services which may be provided by other state agencies in this state and other states or by agencies of the federal government, and may reasonably compensate them for ~~such~~ those services. Also, he or she may receive any federal funds, state funds or any other funds, and enter into cooperative agreements, for the reclamation of land affected by surface mining.

§22-3-4. Reclamation; duties and functions of director secretary.

(a) The ~~director~~ secretary shall administer the provisions of this article relating to surface-mining operations. The ~~director~~ secretary has within his or her jurisdiction and supervision all lands and areas of the

state, mined or susceptible of being mined, for the removal of coal and all other lands and areas of the state deforested, burned over, barren or otherwise denuded, unproductive and subject to soil erosion and waste. Included within ~~such~~ the lands and areas are lands seared and denuded by chemical operations and processes, abandoned coal mining areas, swamplands, lands and areas subject to flowage easements and backwaters from river locks and dams, and river, stream, lake and pond shore areas subject to soil erosion and waste. The jurisdiction and supervision exercised by the ~~director~~ secretary shall be consistent with other provisions of this chapter.

(b) The ~~director has the authority to:~~ secretary may:

(1) ~~Promulgate rules~~ Propose rules for promulgation, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article: *Provided*, That the ~~director~~ secretary shall give notice by publication of the public hearing required in article three, chapter twenty-nine-a of this code: *Provided, however*, That any forms, handbooks or similar materials having the effect of a rule as defined in article three, chapter twenty-nine-a of this code were issued, developed or distributed by the director pursuant to or as a result of a rule are subject to the provisions of article three, chapter twenty-nine-a of this code;

(2) Make investigations or inspections necessary to ensure complete compliance with the provisions of this code;

(3) Conduct hearings or appoint persons to conduct hearings under provisions of this article or rules adopted by the director secretary; and for the purpose of any investigation or hearing ~~hereunder~~ under this article, the ~~director~~ secretary or his or her designated representative, may administer oaths or affirmations, subpoena witnesses, compel their attendance, take evidence and require production of any books, papers, correspondence, memoranda, agreements, or other documents or records relevant or material to the inquiry;

(4) Enforce the provisions of this article as provided ~~herein~~ in this article; ~~and~~

(5) Appoint such advisory committees as may be of assistance to the director secretary in the development of programs and policies: *Provided*, That such advisory committees shall, in each instance, include members representative of the general public; and

(6) In relation to blasting on all surface-mining operations and all surface-blasting activities related to underground mining operations:

(A) Regulate blasting on all surface-mining operations;

(B) Implement and oversee the preblast survey process, as set forth in section thirteen-a, article three of this chapter;

(C) Maintain and operate a system to receive and address questions, concerns and complaints relating to mining operations;

(D) Set the qualifications for individuals and firms performing preblast surveys;

(E) Educate, train, examine and certify blasters; and

(F) Propose rules for legislative approval pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code for the implementation of sections thirty-four through thirty-nine of this article.

(c)(1) After the director secretary has adopted the rules required by this article, any person may petition the director secretary to initiate a proceeding for the issuance, amendment or appeal of a rule under this article.

(2) The petition shall be filed with the director secretary and shall set forth the facts which support the issuance, amendment or appeal of a rule under this article.

(3) The director Secretary may hold a public hearing or may conduct such investigation or proceeding as he or she considers

appropriate in order to determine whether the petition should be granted or denied.

(4) Within ninety days after filing of a petition described in subdivision (1) of this subsection, the ~~director~~ secretary shall either grant or deny the petition. If the ~~director~~ secretary grants the petition, he or she shall promptly commence an appropriate proceeding in accordance with the provisions of chapter twenty-nine-a of this code. If the ~~director~~ secretary denies the petition, he or she shall notify the petitioner in writing setting forth the reasons for the denial.

§22-3-13. General environmental protection performance standards for surface mining; variances.

(a) Any permit issued by the ~~director~~ secretary pursuant to this article to conduct surface mining operations shall require that the surface mining operations meet all applicable performance standards of this article and other requirements set forth in legislative rules proposed by the ~~director~~ secretary.

(b) The following general performance standards are applicable to all surface mines and require the operation, at a minimum, to:

(1) Maximize the utilization and conservation of the solid fuel resource being recovered to minimize re-affecting the land in the future through surface mining;

(2) Restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood so long as the use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution and the permit applicants' declared proposed land use following reclamation is not considered to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation or is violative of federal, state or local law;

(3) Except as provided in subsection (c) of this section, with respect to all surface mines, backfill, compact where advisable to ensure stability or to prevent leaching of toxic materials and grade in order to restore the approximate original contour: *Provided*, That in surface mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade and compact, where advisable, using all available overburden and other spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region: *Provided, however*, That in surface mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall, after restoring the approximate contour, backfill, grade and compact, where advisable, the excess overburden and other spoil and waste materials to attain the lowest grade, but not more than the angle of repose, and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region and the overburden or spoil shall be shaped and graded in a way as to prevent slides, erosion and water pollution and revegetated in accordance with the requirements of this article: *Provided further*, That the ~~director~~ secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code governing variances to the requirements for return to approximate original contour or highwall elimination and

where adequate material is not available from surface mining operations permitted after the effective date of this article for: (A) Underground mining operations existing prior to August 3, 1977; or (B) for areas upon which surface mining prior to July 1, 1977, created highwalls;

(4) Stabilize and protect all surface areas, including spoil piles, affected by the surface mining operation to effectively control erosion and attendant air and water pollution;

(5) Remove the topsoil from the land in a separate layer, replace it on the backfill area or, if not utilized immediately, segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful vegetative cover by quick growing plants or by other similar means in order to protect topsoil from wind and water erosion and keep it free of any contamination by other acid or toxic material: *Provided*, That if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate and preserve in a like manner any other strata which is best able to support vegetation;

(6) Restore the topsoil or the best available subsoil which is best able to support vegetation;

(7) Ensure that all prime farmlands are mined and reclaimed in accordance with the specifications for soil removal, storage, replacement and reconstruction established by the United States Secretary of Agriculture and the Soil Conservation Service pertaining thereto. The operator, at a minimum, shall: (A) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity and, if not utilized immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic

material; (B) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of the horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil and, if not utilized immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic material; (C) replace and regrade the root zone material described in paragraph (B) of this subdivision with proper compaction and uniform depth over the regraded spoil material; and (D) redistribute and grade in a uniform manner the surface soil horizon described in paragraph (A) of this subdivision;

(8) Create, if authorized in the approved surface mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities in accordance with rules promulgated by the ~~director~~ secretary.

(9) Where augering is the method of recovery, seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the ~~director~~ Secretary determines that the resulting impoundment of water in the auger holes may create a hazard to the environment or the public welfare and safety: *Provided*, That the ~~director~~ Secretary may prohibit augering if necessary to maximize the utilization, recoverability or conservation of the mineral resources or to protect against adverse water quality impacts;

(10) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation by: (A) Avoiding acid or other toxic mine drainage by such measures as, but not limited to: (I) Preventing or removing water from contact with toxic producing deposits; (ii) treating drainage to reduce toxic content

which adversely affects downstream water upon being released to water courses; and (iii) casing, sealing or otherwise managing boreholes, shafts and wells and keep acid or other toxic drainage from entering ground and surface waters; (B) conducting surface mining operations so as to prevent to the extent possible, using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event may contributions be in excess of requirements set by applicable state or federal law; (C) constructing an approved drainage system pursuant to paragraph (B) of this subdivision, prior to commencement of surface mining operations, the system to be certified by a person approved by the ~~director~~ secretary to be constructed as designed and as approved in the reclamation plan; (D) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines; (E) unless otherwise authorized by the ~~director~~ secretary, cleaning out and removing temporary or large settling ponds or other siltation structures after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the ~~director~~ secretary; (F) restoring recharge capacity of the mined area to approximate premining conditions; and (G) any other actions prescribed by the ~~director~~ secretary;

(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes and other wastes in areas other than the mine working excavations: (A) Stabilize all waste piles in designated areas through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site will be stabilized and revegetated according to the provisions of this article; and (B) assure that the construction of any coal waste pile or other coal waste storage area utilizes appropriate technologies, such as capping or the use of liners, or any other demonstrated technologies or measures which are consistent with good engineering practices, to prevent an acid mine drainage discharge;

(12) Design, locate, construct, operate, maintain, enlarge, modify and remove or abandon, in accordance with standards and criteria developed pursuant to subsection (f) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(13) Refrain from surface mining within five hundred feet of any active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided*, That the ~~director~~ secretary shall permit an operator to mine near, through or partially through an abandoned underground mine or closer to an active underground mine if: (A) The nature, timing and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are coordinated jointly by the operators involved and approved by the ~~director~~ secretary; and (B) the operations will result in improved resource recovery, abatement of water pollution or elimination of hazards to the health and safety of the public: *Provided, however*, That any breakthrough which does occur shall be sealed;

(14) Ensure that all debris, acid-forming materials, toxic materials or materials constituting a fire hazard are treated or buried and compacted, or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters, and that contingency plans are developed to prevent sustained combustion: *Provided*, That the operator shall remove or bury all metal, lumber, equipment and other debris resulting from the operation before grading release;

(15) Ensure that explosives are used only in accordance with existing state and federal law and the rules promulgated by the ~~director~~ secretary, which shall include provisions to:

(A) Maintain for a period of at least three years and make available for public inspection, upon written request, a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of

explosives used per hole and the order and length of delay in the blasts;
and

(B) Require that all blasting operations be conducted by persons certified by the ~~Office of Explosives and Blasting~~ Division of Mining and Reclamation.

(16) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface mining operations. Time limits shall be established by the ~~director~~ secretary requiring backfilling, grading and planting to be kept current: *Provided*, That where surface mining operations and underground mining operations are proposed on the same area, which operations must be conducted under separate permits, the ~~director~~ secretary may grant a variance from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

(A) If the ~~director~~ secretary finds in writing that:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(ii) The proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;

(iii) The applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued by the appropriate authority;

(iv) The areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;

(v) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this article; and

(vi) Provisions for the off-site storage of spoil will comply with subdivision (22), subsection (b) of this section;

(B) If the ~~director~~ Secretary has promulgated specific rules to govern the granting of the variances in accordance with the provisions of this subparagraph and has imposed any additional requirements as the ~~director~~ Secretary considers necessary;

(C) If variances granted under the provisions of this paragraph are reviewed by the ~~director~~ Secretary not more than three years from the date of issuance of the permit: *Provided*, That the underground mining permit shall terminate if the underground operations have not commenced within three years of the date the permit was issued, unless extended as set forth in subdivision (3), section eight of this article; and

(D) If liability under the bond filed by the applicant with the ~~director~~ Secretary pursuant to subsection (b), section eleven of this article is for the duration of the underground mining operations and until the requirements of subsection (g), section eleven of this article and section twenty-three of this article have been fully complied with;

(17) Ensure that the construction, maintenance and post-mining conditions of access and haul roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided*, That access roads constructed for and used to provide infrequent service to surface facilities, such as ventilators or monitoring devices, are exempt from specific construction criteria provided adequate stabilization to control erosion is achieved through alternative measures;

(18) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in proximity to the channel so as to significantly alter the normal flow of water;

(19) Establish on the regraded areas, and all other lands affected, a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected or of a fruit, grape or berry producing variety suitable for human consumption and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable or when necessary to achieve the approved post-mining land use plan;

(20) Assume the responsibility for successful revegetation, as required by subdivision (19) of this subsection, for a period of not less than five growing seasons, as defined by the director secretary, after the last year of augmented seeding, fertilizing, irrigation or other work in order to assure compliance with subdivision (19) of this subsection: *Provided*, That when the director secretary issues a written finding approving a long-term agricultural post-mining land use as a part of the mining and reclamation plan, the director may grant exception to the provisions of subdivision (19) of this subsection: *Provided, however*, That when the director approves an agricultural post-mining land use, the applicable five growing seasons of responsibility for revegetation begins on the date of initial planting for the agricultural post-mining land use;

On lands eligible for remining assume the responsibility for successful revegetation, as required by subdivision (19) of this subsection, for a period of not less than two growing seasons, as defined by the director after the last year of augmented seeding, fertilizing, irrigation or other work in order to assure compliance with subdivision (19) of this subsection;

(21) Protect off-site areas from slides or damage occurring during surface mining operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area: *Provided*, That spoil material may be placed outside the permit area if approved by the director secretary after a finding that environmental

benefits will result from the placing of spoil material outside the permit area;

(22) Place all excess spoil material resulting from surface mining activities in a manner that: (A) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in a way as to assure mass stability and to prevent mass movement; (B) the areas of disposal are within the bonded permit areas and all organic matter is removed immediately prior to spoil placements; (C) appropriate surface and internal drainage system or diversion ditches are used to prevent spoil erosion and movement; (D) the disposal area does not contain springs, natural water courses or wet weather seeps, unless lateral drains are constructed from the wet areas to the main under drains in a manner that filtration of the water into the spoil pile will be prevented; (E) if placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the ~~director~~ secretary, the spoil could be placed in compliance with all the requirements of this article, and is placed, where possible, upon, or above, a natural terrace, bench or berm, if placement provides additional stability and prevents mass movement; (F) where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient size to prevent mass movement, is constructed; (G) the final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses; (H) the design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and (I) all other provisions of this article are met: *Provided*, That where the excess spoil material consists of at least eighty percent, by volume, sandstone, limestone or other rocks that do not slake in water and will not degrade to soil material, the ~~director~~ secretary may approve alternate methods for disposal of excess spoil material, including fill placement by dumping in a single lift, on a site-specific basis: *Provided, however*, That the services of a qualified registered professional engineer experienced in the design and construction of earth and rockfill embankment are utilized: *Provided further*, That the approval may not be unreasonably withheld if the site is suitable;

(23) Meet any other criteria necessary to achieve reclamation in accordance with the purposes of this article, taking into consideration the physical, climatological and other characteristics of the site;

(24) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife and related environmental values, and achieve enhancement of these resources where practicable;

(25) Retain a natural barrier to inhibit slides and erosion on permit areas where outcrop barriers are required: *Provided*, That constructed barriers may be allowed where: (A) Natural barriers do not provide adequate stability; (B) natural barriers would result in potential future water quality deterioration; and (C) natural barriers would conflict with the goal of maximum utilization of the mineral resource: *Provided, however*, That at a minimum, the constructed barrier shall be of sufficient width and height to provide adequate stability and the stability factor shall equal or exceed that of the natural outcrop barrier: *Provided further*, That where water quality is paramount, the constructed barrier shall be composed of impervious material with controlled discharge points; and

~~(26) The director shall promulgate for review and consideration by the West Virginia Legislature legislative rules or emergency rules during the 2016 Regular Session of the West Virginia Legislature; revisions to rules for contemporaneous reclamation as required under subdivision (16), subsection (b) of this section. The secretary shall specifically consider the adoption of federal standards codified at 30 C. F. R. ‘§816.100-116 (1983) and 30 C. F. R. ‘§817.100-116 (1983) when proposing revisions to the state rule.~~

(c)(1) The ~~director~~ secretary may prescribe procedures pursuant to which he or she may permit surface mining operations for the purposes set forth in subdivision (3) of this subsection.

(2) Where an applicant meets the requirements of subdivisions (3) and (4) of this subsection, a permit without regard to the requirement

to restore to approximate original contour set forth in subsection (b) or (d) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge or hill, except as provided in paragraph (A), subdivision (4) of this subsection, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining and capable of supporting post-mining uses in accordance with the requirements of this subsection.

(3) In cases where an industrial, commercial, agricultural, commercial forestry, residential or public facility including recreational uses is proposed for the post-mining use of the affected land, the ~~director~~ Secretary may grant a permit for a surface mining operation of the nature described in subdivision (2) of this subsection where: (A) The proposed post-mining land use is determined to constitute an equal or better use of the affected land, as compared with premining use; (B) the applicant presents specific plans for the proposed post-mining land use and appropriate assurances that the use will be: (i) Compatible with adjacent land uses; (ii) practicable with respect to achieving the proposed use; (iii) obtainable according to data regarding expected need and market; (iv) supported by commitments from public agencies where appropriate; (v) practicable with respect to private financial capability for completion of the proposed use; (vi) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the post-mining land use; and (vii) designed by a person approved by the ~~director~~ secretary in conformance with standards established to assure the stability, drainage and configuration necessary for the intended use of the site; (C) the proposed use would be compatible with adjacent land uses, and existing state and local land use plans and programs; (D) the ~~director~~ secretary provides the county commission of the county in which the land is located and any state or federal agency which the ~~director~~ secretary, in his or her discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days

to review and comment on the proposed use; and (E) all other requirements of this article will be met.

(4) In granting any permit pursuant to this subsection, the director Secretary shall require that: (A) A natural barrier be retained to inhibit slides and erosion on permit areas where outcrop barriers are required: *Provided*, That constructed barriers may be allowed where: (i) Natural barriers do not provide adequate stability; (ii) natural barriers would result in potential future water quality deterioration; and (iii) natural barriers would conflict with the goal of maximum utilization of the mineral resource: *Provided, however*, That, at a minimum, the constructed barrier shall be sufficient in width and height to provide adequate stability and the stability factor shall equal or exceed that of the natural outcrop barrier: *Provided further*, That where water quality is paramount, the constructed barrier shall be composed of impervious material with controlled discharge points; (B) the reclaimed area is stable; (C) the resulting plateau or rolling contour drains inward from the out slopes except at specific points; (D) no damage will be done to natural watercourses; (E) spoil will be placed on the mountaintop bench as is necessary to achieve the planned post-mining land use: *And provided further*, That all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of subdivision (22), subsection (b) of this section; and (F) ensure stability of the spoil retained on the mountaintop and meet the other requirements of this article.

(5) All permits granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit; unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(d) In addition to those general performance standards required by this section, when surface mining occurs on slopes of twenty degrees or greater, or on lesser slopes as may be defined by rule after consideration of soil and climate, no debris, abandoned or disabled

equipment, spoil material or waste mineral matter will be placed on the natural downslope below the initial bench or mining cut: *Provided*, That soil or spoil material from the initial cut of earth in a new surface mining operation may be placed on a limited specified area of the downslope below the initial cut if the permittee can establish to the satisfaction of the director secretary that the soil or spoil will not slide and that the other requirements of this section can still be met.

(e) The director secretary may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code that permit variances from the approximate original contour requirements of this section: *Provided*, That the watershed control of the area is improved: *Provided, however*, That complete backfilling with spoil material is required to completely cover the highwall, which material will maintain stability following mining and reclamation.

(f) The director secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code for the design, location, construction, maintenance, operation, enlargement, modification, removal and abandonment of new and existing coal mine waste piles. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this subsection shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices and orders for required remedial or maintenance work or affirmative action: *Provided*, That whenever the director secretary finds that any coal processing waste pile constitutes an imminent danger to human life, he or she may, in addition to all other remedies and without the necessity of obtaining the permission of any person prior or present who operated or operates a pile or the landowners involved, enter upon the premises where any coal processing waste pile exists and may take or order to be taken any remedial action that may be necessary or expedient to secure the coal

processing waste pile and to abate the conditions which cause the danger to human life: *Provided, however,* That the cost reasonably incurred in any remedial action taken by the ~~director~~ secretary under this subsection may be paid for initially by funds appropriated to the division for these purposes and the sums expended shall be recovered from any responsible operator or landowner, individually or jointly, by suit initiated by the Attorney General at the request of the ~~director~~ secretary. For purposes of this subsection, ‘operates’ or ‘operated’ means to enter upon a coal processing waste pile, or part of a coal processing waste pile, for the purpose of disposing, depositing, dumping coal processing wastes on the pile or removing coal processing waste from the pile, or to employ a coal processing waste pile for retarding the flow of or for the impoundment of water.

(g) The Secretary shall promulgate for review and consideration by the West Virginia Legislature during the 2017 Regular Session of the West Virginia Legislature revisions to the rules for minimizing the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas both during and after surface mining operations and during reclamation as required under subdivision (10), subsection (b) of this section, including specifically the rules for stormwater runoff and control plans. The secretary shall specifically conform these rules to the federal standards codified at 30 C.F.R. §816.41 (1983) and 30 C.F.R. §816.45-47 (1983) when proposing revisions to the state rule. The secretary shall not propose rules more stringent than the federal standards codified at 30 C.F.R. §816.41 (1983) and 30 C.F.R. §816.45-47 (1983) when proposing revisions to the state rule.

§22-3-13a. Preblast survey requirements.

(a) At least thirty days prior to commencing blasting, as defined in section twenty-two-a of this article, an operator or an operator’s designee shall make the following notifications in writing to all owners and occupants of man-made dwellings or structures that the operator

or operator's designee will perform preblast surveys in accordance with subsection (f) of this section:

(1) For surface mining operations that are less than two hundred acres in a single permitted area or less than three hundred acres of contiguous or nearly contiguous area of two or more permitted areas, the required notifications shall be to all owners and occupants of man-made dwellings or structures within five tenths of a mile of the permitted area or areas;

(2) For all other surface mining operations, the required notifications shall be to all owners and occupants of man-made dwellings or structures within five tenths of a mile of the permitted area or areas or seven tenths of a mile of the proposed blasting site, whichever is greater; and

(3) For permitted surface disturbance of underground mines, the required notifications shall be to all owners and occupants of man-made dwellings or structures within five tenths of a mile of the permitted surface area or areas.

(b) ~~Within thirty days of the effective date of this section, any~~ Any operator identified in subdivision (2), subsection (a) of this section that has already completed preblast surveys for man-made dwellings or structures within five tenths of a mile of the permit area and has commenced operations by the effective date of this section shall notify in writing all additional owners and occupants of man-made dwellings or structures within seven tenths of a mile of the proposed blasting site. Except for those dwellings or structures for which the operator secures a written waiver or executes an affidavit in accordance with the requirements of subsection (c) of this section, the operator or the operator's designee must perform the additional preblast surveys in accordance with subsection (f) of this section. ~~within ninety days of the effective date of this section.~~

(c) An occupant or owner of a man-made dwelling or structure within the areas described in subdivision (1) or (2), subsection (a) of

this section may waive the right to a preblast survey in writing. If a dwelling is occupied by a person other than the owner, both the owner and the occupant must waive the right to a preblast survey in writing. If an occupant or owner of a man-made dwelling or structure refuses to allow the operator or the operator's designee access to the dwelling or structure and refuses to waive in writing the right to a preblast survey or to the extent that access to any portion of the structure, underground water supply or well is impossible or impractical under the circumstances, the preblast survey shall indicate that access was refused, impossible or impractical. The operator or the operator's designee shall execute a sworn affidavit explaining the reasons and circumstances surrounding the refusals. ~~The office of explosives and blasting~~ Division of Mining and Reclamation may not determine the preblast survey to be incomplete because it indicates that access to a particular structure, underground water supply or well was refused, impossible or impractical. The operator shall send copies of all written waivers and affidavits executed pursuant to this subsection to the ~~office of explosives and blasting~~ Division of Mining and Reclamation.

(d) If a preblast survey was waived by the owner and was within the requisite area and the property was sold, the new owner may request a preblast survey from the operator.

(e) An owner within the requisite area may request, from the operator, a preblast survey on structures constructed after the original preblast survey.

(f) The preblast survey shall include:

(1) The names, addresses or description of structure location and telephone numbers of the owner and the residents of the structure being surveyed and the structure number from the permit blasting map;

(2) The current home insurer of the owner and the residents of the structure;

(3) The names, addresses and telephone numbers of the surface mining operator and the permit number;

(4) The current general liability insurer of the surface mining operator;

(5) The name, address and telephone number of the person or firm performing the preblast survey;

(6) The current general liability insurer of the person or firm performing the preblast survey;

(7) The date of the preblast survey and the date it was mailed or delivered to the ~~office of explosives and blasting~~ Division of Mining and Reclamation.

(8) A general description of the structure and its appurtenances, including, but not limited to: (A) The number of stories; (B) the construction materials for the frame and the exterior and interior finish; (C) the type of construction including any unusual or substandard construction; and (D) the approximate age of the structure;

(9) A general description of the survey methods and the direction of progression of the survey, including a key to abbreviations used;

(10) Written documentation and drawings, videos or photographs of the preblast defects and other physical conditions of all structures, appurtenances and water sources which could be affected by blasting;

(11) Written documentation and drawings, videos or photographs of the exterior and interior of the structure to indicate preblast defects and condition;

(12) Written documentation and drawings, videos or photographs of the exterior and interior of any appurtenance of the structure to indicate preblast defects and condition;

(13) Sufficient exterior and interior photographs or videos, using a variety of angles, of the structure and its appurtenances to indicate preblast defects and the condition of the structure and appurtenances;

(14) Written documentation and drawings, videos or photographs of any unusual or substandard construction technique and materials used on the structure or its appurtenances or both structure and appurtenances;

(15) Written documentation relating to the type of water supply, including a description of the type of system and treatment being used, an analysis of untreated water supplies, a water analysis of water supplies other than public utilities and information relating to the quantity and quality of water;

(16) When the water supply is a well, written documentation, where available, relating to the type of well; the well log; the depth, age and type of casing or lining; the static water level; flow data; the pump capacity; the drilling contractor; and the source or sources of the documentation;

(17) A description of any portion of the structure and appurtenances not documented or photographed and the reasons;

(18) The signature of the person performing the survey; and

(19) Any other information required by the chief which additional information shall be established by rule in accordance with article three, chapter twenty-nine-a of this code.

(g) Except for additional preblast surveys prepared within one hundred twenty days of the effective date of this section, pursuant to subsection (b) of this section, the preblast survey shall be submitted to the ~~office of explosives and blasting~~ Division of Mining and Reclamation at least fifteen days prior to the commencement of any production blasting. The ~~office of explosives and blasting~~ Division of Mining and Reclamation shall review each preblast survey as to form

and completeness only and notify the operator of any deficiencies: *Provided*, That once all required surveys have been reviewed and accepted by the ~~office of explosives and blasting~~ Division of Mining and Reclamation, blasting may commence sooner than fifteen days after submittal. The ~~office of explosives and blasting~~ Division of Mining and Reclamation shall provide a copy of the preblast survey to the owner or occupant.

(h) The surface mining operator shall file notice of the preblast survey or the waiver in the office of the county clerk of the county commission of the county where the man-made dwelling or structure is located to notify the public that a preblast survey has been conducted or waived. The notice shall be on a form prescribed by the ~~office of explosives and blasting~~ Division of Mining and Reclamation.

(i) ~~The chief of the office of explosives shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code dealing with preblast survey requirements and setting the qualifications for individuals and firms performing preblast surveys. All authority to promulgate rules pursuant to article three, chapter twenty-nine-a of this code [include language from §22-3A-4] is hereby transferred from the office of explosives and blasting to the Division of Mining and Reclamation as of the effective date of enactment of this section and article during the 2016 session of the Legislature; *Provided* That any rule promulgated by office of explosives and blasting shall remain in force and effect as though promulgated by the Division of Mining and Reclamation until the Secretary amends the rules in accordance with the provisions of article three, chapter twenty-nine-a of this code.~~

(j) The provisions of this section do not apply to the extraction of minerals by underground mining methods.

§22-3-22a. Blasting restrictions; site specific blasting design requirement.

(a) For purposes of this section, the term “production blasting” means blasting that removes the overburden to expose underlying coal seams and does not include construction blasting.

(b) For purposes of this section, the term “construction blasting” means blasting to develop haul roads, mine access roads, coal preparation plants, drainage structures or underground coal mine sites and does not include production blasting.

(c) For purposes of this section, the term “protected structure” means any of the following structures that are situated outside the permit area: An occupied dwelling; a temporarily unoccupied dwelling which has been occupied within the past ninety days; a public building; a structure for commercial purposes; a school; a church; a community or institutional building; and a public park or a water well.

(d) Production blasting is prohibited within three hundred feet of a protected structure or within one hundred feet of a cemetery.

(e) Blasting within one thousand feet of a protected structure shall have a site-specific blast design approved by the ~~office of explosives and blasting~~ Division of Mining and Reclamation. The site-specific blast design shall limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts to do the following:

(1) Prevent injury to persons; (2) prevent damage to public and private property outside the permit area; (3) prevent adverse impacts on any underground mine; (4) prevent change in the course, channel or availability of ground or surface water outside the permit area; and (5) reduce dust outside the permit area.

In the development of a site-specific blasting plan, consideration shall be given, but is not limited to, the physical condition, type and quality of construction of the protected structure, the current use of the protected structure and the concerns of the owner or occupant living in the protected structures identified in the blasting schedule notification area.

(f) An owner or occupant of a protected structure may waive the blasting prohibition within three hundred feet. If a protected structure is occupied by a person other than the owner, both the owner and the occupant of the protected structure shall waive the blasting prohibition within three hundred feet in writing. The operator shall send copies of all written waivers executed pursuant to this subsection to the ~~office of explosives and blasting~~ Division of Mining and Reclamation. Written waivers executed and filed with the ~~office of explosives and blasting~~ Division of Mining and Reclamation are valid during the life of the permit or any renewals of the permit and are enforceable against any subsequent owners or occupants of the protected structure.

(g) The provisions of this section do not apply to the following: (1) Underground coal mining operations; (2) the surface operations and surface impacts incident to an underground coal mine; and (3) the extraction of minerals by underground mining methods or the surface impacts of the underground mining methods: *Provided*, That nothing contained in this section may be construed to exempt any coal mining operation from the general performance standards as contained in section thirteen of this article and any rules promulgated pursuant to said section.

§22-3-30a. Blasting requirements; liability and civil penalties in the event of property damage.

(a) Blasting shall be conducted in accordance with the rules and laws established to regulate blasting.

(b) If the Division of Environmental Protection establishes after an inspection that a blast at a surface coal mine operation as defined by the provisions of subdivision (2), subsection (a), section thirteen-a of this article was not in compliance with the regulations governing blasting parameters and resulted in property damage to a protected structure, as defined in section twenty-two-a of this article, other than water wells, the following penalties shall be imposed for each permit area or contiguous permit areas where the blasting was out of compliance:

(1) For the first offense, the operator shall be assessed a penalty of not less than \$1,000 nor more than \$5,000.

(2) For the second offense and each subsequent offense within one year of the first offense, the surface mining operator shall be assessed a penalty of not less than \$5,000 nor more than \$10,000.

(3) For the third offense and any subsequent offense within one year of the first offense, or for the failure to pay any assessment set forth within a reasonable time established by the ~~director~~ Secretary, the surface mining operator's permit is subject to an immediate issuance of a cessation order, as set out in section sixteen of this article. The cessation order shall only be released upon written order of the ~~director~~ Secretary of the Department of Environmental Protection when the following conditions have been met:

(A) A written plan has been established and filed with the director Secretary assuring that additional violations will not occur;

(B) The permittee has provided compensation for the property damages or the assurance of adequate compensation for the property damages that have occurred; and

(C) A permittee shall provide such monetary and other assurances as the director Secretary considers appropriate to compensate for future property damages. The monetary assurances required shall be in an amount at least equal to the amount of compensation required in paragraph (B), subdivision (3) of this subsection.

(4) In addition to the penalties described in subdivisions (1), (2) and (3) of this subsection for the second and subsequent offenses on any one permitted area regardless of the time period, the owner of the protected structure is entitled to a rebuttable presumption that the property damage is a result of the blast if: (A) A preblast survey was performed; and (B) the blasting site to which the second or subsequent offense relates is within seven tenths of a mile of the protected structure.

(5) No more than one offense may arise out of any one shot. For purposes of this section, “shot” means a single blasting event composed of one or multiple detonations of explosive material or the assembly of explosive materials for this purpose. One “shot” may be composed of numerous explosive charges detonated at intervals measured in milliseconds.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the Department of Environmental Protection may not impose penalties, as provided for in subsection (b) of this section, on an operator for the violation of any rule identified in subsection (b) of this section that is merely administrative in nature.

(d) The remedies provided in this section are not exclusive and may not bar an owner or occupant from any other remedy accorded by law.

(e) Where inspection by the Department of Environmental Protection establishes that production blasting, in violation of section twenty-two-a of this article, was done within three hundred feet of a protected structure, without an approved site-specific blast design or not in accordance with an approved site-specific blast design for production blasting within one thousand feet of any protected structure as defined in section twenty-two-a of this article or within one hundred feet of a cemetery, the monetary penalties and revocation, as set out in subsection (b) of this section, apply.

(f) All penalties and liabilities as set forth in subsection (b) of this section shall be assessed by the ~~director~~ Secretary, collected by the ~~director~~ Secretary and deposited with the Treasurer of the State of West Virginia in the “General School Fund”.

(g) The ~~director~~ Secretary shall propose rules for legislative approval pursuant to article three, chapter twenty-nine-a of this code for the implementation of this section.

(h) The provisions of this section do not apply to the extraction of minerals by underground mining methods: *Provided*, That nothing contained in this section may be construed to exempt any coal mining operation from the general performance standards as contained in section thirteen of this article and any rules promulgated pursuant thereto.

§22-3-34. Office of explosives and blasting terminated; transfer of functions; responsibilities.

The office of explosives and blasting within the Department of Environmental Protection is hereby terminated.

§22-3-35. Legislative rules on surface-mining blasting; disciplinary procedures for certified blasters.

(a) The Division of Mining and Reclamation shall apply and enforce the previously existing rules of the former office of explosive and blasting at 199 CSR 1 until such time as it adopts rules of its own to implement this section, but shall promulgate rules for legislative approval in accordance with the provisions of section fifteen, article three, chapter twenty-nine-a of this code as necessary to reflect the repeal of section seven, article three-a, of this chapter of the Code of West Virginia, as amended. Any rules promulgated by the Division of Mining and Reclamation shall include, but not be limited to, the following:

(1) A procedure for the review, modification and approval, prior to the issuance of any permit, of any blasting plan required to be submitted with any application for a permit to be issued by the secretary pursuant to article three of this chapter, which sets forth procedures for the inspection and monitoring of blasting operations for compliance with blasting laws and rules, and for the review and modification of the blasting plan of any operator against whom an enforcement action is taken by the Division of Environmental Protection;

(2) Specific minimum requirements for preblast surveys, as set forth in section thirteen-a, article three of this chapter;

(3) A procedure for review of preblast surveys required to be submitted under section thirteen-a, article three of this chapter;

(4) A procedure for the use of seismographs for production blasting which shall be made part of the blasting log;

(5) A procedure to warn of impending blasting to the owners or occupants adjoining the blasting area;

(6) A procedure to limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to: (A) Prevent injury to persons; (B) prevent damage to public and private property outside the permit area; (C) prevent adverse impacts on any underground mine; (D) prevent change in the course, channel or availability of ground or surface water outside the permit area; and (E) reduce dust outside the permit area;

(7) Provisions for requiring mining operators to publish the planned blasting schedule in a newspaper of general circulation in the locality of the mining operation;

(8) Provisions for requiring mining operators to provide adequate advance written notice of the proposed blasting schedule to local governments, owners and occupants living within the distances prescribed in subsection (a), section thirteen-a, article three of this chapter.

(9) Provisions for establishing a process for the education, training, examination and certification of blasters working on surface-mining operations; and

(10) Provisions for establishing disciplinary procedures for all certified blasters responsible for blasting on surface-mining operations

conducted within this state in violation of any law or rule promulgated by the Department of Environmental Protection to regulate blasting.

§22-3-36. Claims process for blasting.

(a) The Division of Mining and Reclamation shall establish and manage a process for the filing, administration and resolution of claims related to blasting.

(b) Claims which may be filed and determined under the provisions of this section shall be those arising from both of the following:

(1) Damage to property arising from blasting activities conducted pursuant to a permit granted under article three of this chapter; and

(2) The damage is incurred by a claimant who is the owner or occupant of the property.

(c) The claims process established by the Division of Mining and Reclamation shall include the following:

(1) An initial determination by the Division of Mining and Reclamation of the merit of the claim; and

(2) An arbitration process whereby the claim can be determined and resolved by an arbitrator in a manner which is inexpensive, prompt and fair to all parties.

(d) If the operator disagrees with the initial determination made by the Division of Mining and Reclamation and requests arbitration, then the following shall apply:

(1) Any party may be represented by a representative of their choice;

(2) At the request of the claimant, the Division of Mining and Reclamation shall provide the claimant with representation in the

arbitration process, which representation shall not necessarily be an attorney-at-law; and

(3) If the claim is upheld, in whole or in part, then the operator shall pay the costs of the proceeding, as well as reasonable representation fees and costs of the claimant, in an amount not to exceed \$1,000.

(e) Participation in the claims process created by this section shall be voluntary for the claimant. However, once the claimant has submitted a claim for determination under the provisions of this section, it is intended that the finding of the Division of Mining and Reclamation, if not taken to arbitration, shall be final. If arbitration is requested, it is intended that the results of such arbitration shall be final. The Division of Mining and Reclamation shall provide written notification to the claimant of the provisions of this subsection and shall secure a written acknowledgment from the claimant prior to processing a claim pursuant to the provisions of this section.

(f) The operator shall pay any claim for which the operator is adjudged liable within thirty days of a final determination. If the claim is not paid within thirty days, the secretary shall issue a cessation order pursuant to section sixteen, article three of this chapter for all sites operated by the operator.

(g) No permit to mine coal shall be granted unless the permit applicant agrees to be subject to the terms of this section.

(h) To fulfill its responsibilities pursuant to this section, the Division of Mining and Reclamation may retain the services of inspectors, experts and other persons or firms as may be necessary.

§22-3-37. Rules, orders and permits to remain in effect regarding blasting; proceedings not affected.

(a) All orders, determinations, rules, permits, grants, contracts, certificates, licenses, waivers, bonds, authorizations and privileges

which have been issued, made, granted or allowed to become effective prior to the enactment of this article shall remain in effect according to their terms until modified, terminated, superseded, set aside or revoked pursuant to this article, by a court of competent jurisdiction, or by operation of law.

(b) Any proceedings, including notices of proposed rule-making, or any application for any license, permit or certificate pending before the division are not affected by this enactment.

§22-3-38. Transfer of personnel and assets.

The secretary shall transfer to the Division of Mining and Reclamation any personnel and assets presently used to perform or used in the performance of the duties and functions required by sections thirty-four through thirty-nine of this article.

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-6. Requirement to comply with standards of water quality and effluent limitations.

All persons affected by rules establishing water quality standards and effluent limitations shall promptly comply ~~therewith~~ with the rules:
Provided, That:

(1) Where necessary and proper, the secretary may specify a reasonable time for persons not complying with ~~such~~ the standards and limitations to comply ~~therewith~~ with the rules and upon the expiration of any ~~such~~ that period of time, the secretary shall revoke or modify any permit previously issued which authorized the discharge of treated or untreated sewage, industrial wastes or other wastes into the waters of this state which result in reduction of the quality of ~~such~~ the waters below the standards and limitations established therefor by rules of the board or secretary;

(2) For purposes of both this article and sections 309 and 505 of the federal Water Pollution Control Act, compliance with a permit

issued pursuant to this article shall be ~~deemed~~ considered compliance for purposes of both this article and sections 301, 302, 303, 306, 307 and 403 of the federal Water Pollution Control Act and with all applicable state and federal water quality standards, except for any such standard imposed under section 307 of the federal Water Pollution Control Act for a toxic pollutant injurious to human health. Notwithstanding any provision of this code or rule or permit condition to the contrary, water quality standards themselves shall not be considered 'effluent standards or limitations' for the purposes of both this article and sections 309 and 505 of the federal Water Pollution Control Act and shall not be independently or directly enforced or implemented except through the development of terms and conditions of a permit issued pursuant to this article. Nothing in this section, however, prevents the secretary from modifying, reissuing or revoking a permit during its term. The provisions of this section addressing compliance with a permit are intended to apply to all existing and future discharges and permits without the need for permit modifications; and

(3) The Legislature finds that there are concerns within West Virginia regarding the applicability of the research underlying the federal selenium criteria to a state such as West Virginia which has high precipitation rates and free-flowing streams and that the alleged environmental impacts that were documented in applicable federal research have not been observed in West Virginia and, further, that considerable research is required to determine if selenium is having an impact on West Virginia streams, to validate or determine the proper testing methods for selenium and to better understand the chemical reactions related to selenium mobilization in water.

(4) The Legislature finds that EPA has been contemplating a revision to the federally recommended criteria for several years, but has yet to issue a revised standard.

(5) Because of the uncertainty regarding the applicability of the current selenium standard, the secretary is hereby directed to develop

within six months of the effective date of this subdivision an implementation plan for the current selenium standard that will include, at minimum, the following:

(A) Implementing the criteria as a threshold standard;

(B) A monitoring plan that will include chemical speciation of any selenium discharge;

(C) A fish population survey and monitoring plan that will be implemented at a representative location to assess any possible impacts from selenium discharges if the threshold criteria are exceeded; and

(D) The results of the monitoring will be reported to the department for use in the development of state-specific selenium criteria.

(6) Within twenty-four months of the effective date of this subdivision, the secretary shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine of this code which establish a state-specific selenium standard that protects aquatic life. Concurrent with proposing a legislative rule, the secretary shall also submit the proposed standard and supporting documentation to the administrator of the Environmental Protection Agency. The secretary shall also consult with and consider research and data from the West Virginia Water Research Institute at West Virginia University, the regulated community and other appropriate groups in developing the state-specific selenium standard.

(7) Within thirty days of the effective date of this section, the secretary shall promulgate an emergency rule revising the statewide aluminum water quality criteria for the protection of aquatic life to incorporate aluminum criteria values using a hardness-based equation. Concurrent with issuing an emergency rule, the secretary shall also submit the proposed revisions and supporting documentation to the administrator of the Environmental Protection Agency

(8) The secretary shall, within ninety days of receipt of any completed request for a site specific water quality criterion, approve or deny the request. Any denial of an application shall detail the specific basis for the denial and any revisions needed to the application. Any denial of a request may be appealed to the environmental quality board pursuant to section twenty-one of this article.

CHAPTER 22A. MINERS' HEALTH, SAFETY AND TRAINING.

ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING ; ADMINISTRATION ; ENFORCEMENT.

§22A-1-13. Employment of surface mine inspectors; eligibility; qualifications; examinations; salary; provisions relating to underground mine inspectors applicable to surface mine inspectors.

(a) The office shall employ as many surface mine inspectors as the director determines to be reasonably necessary in fully and effectively carrying out the applicable provisions of this chapter.

(b) To be eligible for employment as a surface mine inspector the applicant shall be: (1) ~~A~~ a citizen of West Virginia, in good health, not less than twenty-four years of age, of good character and reputation and of temperate habits; (2) a person who has had at least five years of practical experience in coal mines, at least two years of which have been ~~in~~ on surface mines in this state: *Provided*, That graduation from any accredited college of mining engineering may be considered the equivalent of two years of practical experience; and (3) a person who has a good theoretical and practical knowledge of surface mines, surface mining methods, sound safety practices and applicable mining laws and rules. For the purpose of this section, practical experience means the performance of normal mining duties requiring a person to hold a certificate of competency and qualification as an experienced surface miner prior to actually performing ~~such~~ the duties.

(c) (1) In order to qualify for appointment as a surface mine inspector, an eligible applicant shall submit to written, oral and practical examinations administered by the mine inspectors' examining board and furnish evidence of good health, character and other facts establishing eligibility as the board may require. The examinations shall relate to the duties to be performed by a surface mine inspector and, subject to the approval of the mine inspectors' examining board, may be prepared by the director.

(2) If the board finds after investigation and examination that an applicant is: (A) Eligible for appointment; and (B) has passed each required examination with a grade of at least seventy-five percent, or an overall combined average score of eighty percent, the board shall add the applicant's name and grades to the register of qualified eligible candidates and promptly certify its action in writing to the director. The director shall then appoint one of the candidates from the three having the highest grades.

(d) Surface mine inspectors shall be paid an annual salary of not less than \$37,332, which shall be fixed by the director, who shall take into consideration ability, performance of duty, and experience. Surface mine inspectors shall devote all of their time to the duties of the office.

(e) Except as expressly provided in this section to the contrary, all provisions of this article relating to the eligibility, qualification, appointment, tenure, and removal of underground mine inspectors, as well as those provisions relating to compensatory time and reimbursement for necessary expenses, are applicable to surface mine inspectors.

§22A-1-14. Director and inspectors authorized to enter mines; duties of inspectors to examine mines; no advance notice of an inspection; reports after fatal accidents.

(a) The director, or his or her authorized representative, has authority to visit, enter, and examine any mine, whether underground

or on the surface, and may call for the assistance of any district mine inspector or inspectors whenever assistance is necessary in the examination of any mine. The operator of every coal mine shall furnish the director or his or her authorized representative proper facilities for entering the mine and making examination or obtaining information.

(b) If miners or one of their authorized representatives, have reason to believe, at any time, that dangerous conditions are existing or that the law is not being complied with, they may request the director to have an immediate investigation made: Provided, That miners are always encouraged to work with mine management with regards to safety concerns.

(c) Mine inspectors shall devote their full-time and undivided attention to the performance of their duties, and they shall examine all of the mines in their respective districts at least four times annually, and as often, in addition thereto, as the director may direct, or the necessities of the case or the condition of the mine or mines may require, with no advance notice of inspection provided to any person, and they shall make a personal examination of each working face and all entrances to abandoned parts of the mine where gas is known to liberate, for the purpose of determining whether an imminent danger, referred to in section fifteen of this article, exists in the mine, or whether any provision of article two of this chapter is being violated or has been violated within the past forty-eight hours in the mine. No other person shall, with the intent of undermining the integrity of an unannounced mine inspection, provide advance notice of any inspection or of an inspector's presence at a mine to any person at that mine. Any person who, with the requisite intent, knowingly causes or conspires to provide advance notice of any inspection or of an inspector's presence at a mine is guilty of a felony and, upon conviction thereof, shall be fined not more than \$15,000 or imprisoned in a state correctional facility not less than one year and not more than five years, or both fined and imprisoned.

(d) In addition to the other duties imposed by this article and article two of this chapter, it is the duty of each inspector to note each

violation he or she finds and issue a finding, order, or notice, as appropriate for each violation so noted. During the investigation of any accident, any violation may be noted whether or not the inspector actually observes the violation and whether or not the violation exists at the time the inspector notes the violation, so long as the inspector has clear and convincing evidence the violation has occurred or is occurring.

(e) ~~On or after July 1, 2012, an~~ An inspector shall require the operator or other employer to investigate all complaints received by the Office of Miners' Health, Safety and Training involving a certified person's substance abuse or alcohol related impairment at a mine. Within thirty days following notification by the Office of Miners' Health, Safety and Training to the operator or other employer of the complaint, the operator or other employer shall file with the Director a summary of its investigation into the alleged substance abuse or alcohol related impairment of a certified person.

(f) The mine inspector shall visit the scene of each fatal accident occurring in any mine within his or her district and shall make an examination into the particular facts of the accident; make a report to the director, setting forth the results of the examination, including the condition of the mine and the cause or causes of the fatal accident, if known, and all the reports shall be made available to the interested parties, upon written requests.

(g) At the commencement of any inspection of a coal mine by an authorized representative of the director, the authorized representative of the miners at the mine, as well as a salaried employee of management, at the time of the inspection shall be given an opportunity to accompany the authorized representative of the director on the inspection.

§22A-1-15. Findings, orders and notices.

(a) If upon any inspection of a coal mine an authorized representative of the director finds that an imminent danger exists, the

representative shall determine the area throughout which the danger exists and shall immediately issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the area until an authorized representative of the director determines that the imminent danger no longer exists.

(b) If upon any inspection of a coal mine an authorized representative of the director finds that there has been a violation of the law, but the violation has not created an imminent danger, he or she shall issue a notice to the operator or the operator's agent fixing a reasonable time for the abatement of the violation. If upon the expiration of the period of time, as originally fixed or subsequently extended, an authorized representative of the director finds that the violation has not been totally abated, and if the director also finds that the period of time should not be further extended, the director shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the area until an authorized representative of the director determines that the violation has been abated.

(c) If upon any inspection of a coal mine an authorized representative of the director finds that an imminent danger exists in an area of the mine, in addition to issuing an order pursuant to subsection (a) of this section, the director shall review the compliance record of the mine.

(1) A review of the compliance record conducted in accordance with this subsection shall, at a minimum, include a review of the following:

(A) Any closure order issued pursuant to subsection (a) of this section;

(B) Any closure order issued pursuant to subsection (b) of this section;

(C) Any enforcement measures taken pursuant to this chapter, other than those authorized under subsections (a) and (b) of this section;

(D) Any evidence of the operator's lack of good faith in abating significant and substantial violations at the mine;

(E) Any accident, injury or illness record that demonstrates a serious safety or health management problem at the mine; and

~~(F) The number of employees at the mine, the size, layout and physical features of the mine and the length of time the mine has been in operation; and~~

~~(G)~~ (F) Any mitigating circumstances.

(2) If, after review of the mine's compliance record, the director determines that the mine has a history of repeated significant and substantial violations of a particular standard caused by unwarrantable failure to comply or a history of repeated significant and substantial violations of standards related to the same hazard caused by unwarrantable failure to comply and the history or histories demonstrate the operator's disregard for the health and safety of miners, the director shall issue a closure order for the entire mine or area throughout which the director determines the dangerous condition exists and shall immediately issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the mine or area throughout which the director determines the dangerous condition until a thorough inspection of the mine or area has been conducted by the office and the director determines that the operator has abated all violations related to the imminent danger and any violations unearthed in the course of the inspection.

(d) All employees on the inside and outside of a mine who are idled as a result of the posting of a withdrawal order by a mine inspector shall be compensated by the operator at their regular rates of pay for the period they are idled, but not for more than the balance of the shift. If the order is not terminated prior to the next working shift, all the employees on that shift who are idled by the order are entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of the shift.

(e) The following persons are not required to be withdrawn from or prohibited from entering any area of the coal mine subject to an order issued under this section:

(1) Any person whose presence in the area is necessary, in the judgment of the operator or an authorized representative of the director, to eliminate the condition described in the order;

(2) Any public official whose official duties require him or her to enter the area;

(3) Any representative of the miners in the mine who is, in the judgment of the operator or an authorized representative of the director, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in the area is necessary for the investigation of the conditions described in the order; and

(4) Any consultant to any of the persons set forth in this subsection.

(f) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(g) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or the operator's agent by an authorized representative of the director issuing the notice or order and all the notices and orders shall be in writing and shall be signed by the representative and posted on the bulletin board at the mine.

(h) A notice or order issued pursuant to this section may be modified or terminated by an authorized representative of the director.

(i) Each finding, order and notice made under this section shall promptly be given to the operator of the mine to which it pertains by the person making the finding, order or notice.

(j) Definitions. B- For the purposes of this section only, the following terms have the following meanings:

(1) 'Unwarrantable failure' means aggravated conduct, constituting more than ordinary negligence, by a mine operator in relation to a violation of this chapter of the code; and

(2) 'Significant and substantial violation' shall have the same meaning as that established in 6 FMSHRC 1 (1984).

§22A-1-19. Judicial review.

(a) Any order or decision issued by the director under this law, ~~except an order or decision under section fifteen of this article~~ is subject to judicial review by the circuit court of the county in which the mine affected is located ~~or the circuit court of Kanawha County~~ upon the filing in such court or with the judge thereof in vacation of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside, in whole or in part, except that the court shall not consider such petition unless such person has exhausted the administrative remedies available under this law and files within thirty days from date of such order or decision.

(b) The party making such appeal shall forthwith send a copy of such petition for appeal, by registered mail, to the other party. Upon

receipt of such petition for appeal, the director shall promptly certify and file in such court a complete transcript of the record upon which the order or decision complained of was issued. The court shall hear such petition on the record made before the director. The findings of the director, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate or modify any order or decision or may remand the proceedings to the director for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the director under this law, except an order or decision pertaining to an order issued under subsection (a), section fifteen of this article or an order or decision pertaining to a notice issued under subsection (b), section fifteen of this article, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

(A) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(B) The person requesting such relief shows that there is a substantial likelihood that the person will prevail on the merits of the final determination of the proceeding; and

(C) Such relief will not adversely affect the health and safety of miners in the coal mine.

(d) The judgment of the court is subject to review only by the Supreme Court of Appeals of West Virginia upon a writ of certiorari filed in such court within sixty days from the entry of the order and decision of the circuit court upon such appeal from the director.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the director.

(f) Subject to the direction and control of the Attorney General, attorneys appointed for the director may appear for and represent the director in any proceeding instituted under this section.

§22A-1-20. Injunctions.

The director may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the circuit court of the county in which the mine is located ~~or the circuit court of Kanawha County~~, whenever the operator or the operator's agent: (a) Violates or fails or refuses to comply with any order or decision issued under this law; or (b) interferes with, hinders or delays the director or his or her authorized representative in carrying out the provisions of this law; or (c) refuses to admit such representatives to the mine; or (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine; or (e) refuses to furnish any information or report requested by the director in furtherance of the provisions of this law; or (f) refuses to permit access to, and copying of, such records as the director determines necessary in carrying out the provisions of this law. ~~Each~~ The court shall have jurisdiction to provide such relief as may be appropriate. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this law, unless, prior thereto, the circuit court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision issued by the director after a public hearing, the findings of the director, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

§22A-1-31. Withdrawal of certification.

(a) *Charge of breach of duty.* — A mine inspector or the director may charge a mine foreman, assistant mine foreman, fire boss or any

other certified person with neglect or failure to perform any duty mandated pursuant to this article or article two of this chapter. The charge shall state the name of the person charged, the duty or duties he or she is alleged to have violated, the approximate date and place so far as is known of the violation of duty, the capacity of the person making the charge, and shall be verified on the basis of information and belief or personal knowledge. The charge is initiated by filing it with the director or with the board of appeals. A copy of any charge filed with the board of appeals or any member thereof, shall be transmitted promptly to the director. The director shall maintain a file of each charge and of all related documents which shall be open to the public.

(b) *Evaluation of charge by board of appeals.* — Within twenty days after receipt of the charge the board shall evaluate the charge and determine whether or not a violation of duty has been stated. In making such a determination the board shall evaluate all documents submitted to it by all persons to determine as nearly as possible the substance of the charge and if the board of appeals is unable to determine the substance of the charge it may request the director to investigate the charge. Upon request, the director shall cause the charge to be investigated and report the results of the investigation to the board of appeals within ten days of the director's receipt of the charge. If the board determines that probable cause exists to support the allegation that the person charged has violated his or her duty, the board by the end of the twenty-day period shall set a date for hearing which date shall be within eighty days of the filing of the charge. Notice of the hearing or notice of denial of the hearing for failure to state a charge and a copy of the charge shall be mailed by certified mail, return receipt requested, to the charging party, the charged party, the director, the representative of the miner or miners affected and to any interested person of record. Thereafter the board shall maintain the file of the charge which shall contain all documents, testimony and other matters filed which shall be open for public inspection.

(c) *Hearing.* — The Board of Appeals shall hold a hearing, may appoint a hearing examiner to take evidence and report to the Board of

Appeals within the time allotted, may direct or authorize taking of oral depositions under oath by any participant, or adopt any other method for the gathering of sworn evidence which affords the charging party, the charged party, the director and any interested party of record due process of law and a fair opportunity to present and make a record of evidence. Any member of the board shall have the power to administer oaths. The board may subpoena witnesses and require production of any books, papers, records or other documents relevant or material to the inquiry. The board shall consider all evidence offered in support of the charge and on behalf of the persons so charged at the time and place designated in the notice. Each witness shall be sworn and a transcript shall be made of all evidence presented in any such hearing. No continuance shall be granted except for good cause shown.

The Board of Appeals may accept as evidence a notarized affidavit of drug testing procedures and results from a Medical Review Officer (MRO) in lieu of live testimony by the MRO. If the Board of Appeals desires testimony in lieu of a notarized affidavit, the MRO may testify under oath telephonically or by an Internet based program in lieu of physically attending the hearing.

At the conclusion of the hearing the board shall proceed to determine the case upon consideration of all the evidence offered and shall render a decision containing its findings of fact and conclusions of law. If the board finds by a preponderance of the evidence that the certificate or certificates of the charged person should be suspended or revoked, as hereinafter provided, it shall enter an order to that effect. No renewal of the certificate shall be granted except as herein provided.

(d) *Failure to cooperate.* — Any person charged who without just cause refuses or fails to appear before the board or cooperate in the investigation or gathering of evidence shall forfeit his or her certificate or certificates for a period to be determined by the board, not to exceed five years, and such certificate or certificates may not be renewed except upon a successful completion of the examination prescribed by

the law for mine foremen, assistant mine foremen, fire bosses or other certified persons.

(e) *Penalties.* — The board may suspend or revoke the certificate or certificates of a charged party for a minimum of thirty days or more including an indefinite period or may revoke permanently the certificate or certificates of the charged party, as it sees fit, subject to the prescribed penalties and monetary fines imposed elsewhere in this chapter.

(f) *Integrity of penalties imposed.* — No person whose certification is suspended or revoked under this provision can perform any duties under any other certification issued under this chapter, during the period of the suspension imposed herein.

(g) Any party adversely affected by a final order or decision issued by the board hereunder is entitled to judicial review thereof pursuant to section four, article five, chapter twenty-nine-a of this code.

§22A-1-35. Mine rescue teams.

(a) ~~It is the responsibility of the~~ The operator to shall provide mine rescue coverage at each active underground mine.

(b) Mine rescue coverage may be provided by:

(1) Establishing at least two mine rescue teams which are available at all times when miners are underground; or

(2) Entering into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(3) A West Virginia Office of Miners' Health, Safety and Training Mine Rescue Team may serve as a second or backup team for mines within the state and qualify as one of the two teams required under subdivision (1) of this subsection and in accordance with 30 CFR, Part 49.20(4). The operator shall contact the office and obtain the state's

agreement to serve as a backup team in the form of a written notification signed by the director and this notification shall be kept posted at the mine.

(c) As used in this section, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or while in an off-duty capacity. The requirement that mine rescue teams be available does not apply when teams are participating in mine rescue contests or providing rescue services to another mine.

(d) In the event of a fire, explosion or recovery operations in or about any mine, the director is hereby authorized to assign any mine rescue team to said mine to protect and preserve life and property. The director may also assign mine rescue and recovery work to inspectors, instructors or other qualified employees of the office as he or she deems necessary.

(e) The ground travel time between any mine rescue station and any mine served by that station shall not exceed two hours. To ensure adequate rescue coverage for all underground mines, no mine rescue station may provide coverage for more than seventy mines within the two-hour ground travel limit as defined in this subsection.

(f) Each mine rescue team shall consist of five members and one alternate, who are fully qualified, trained and equipped for providing emergency mine rescue service. Each mine rescue team shall be trained by a state certified mine rescue instructor.

(g) Each member of a mine rescue team must have been employed in an underground mine for a minimum of one year. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground meet the experience requirement. The underground experience requirement is waived for those members of a mine rescue team on the effective date of this statute.

(h) An applicant for initial mine rescue training shall pass, on at least an annual basis, a physical examination by a licensed physician certifying his or her fitness to perform mine rescue work. A record that such examination was taken, together with pertinent data relating thereto, shall be kept on file by the operator and a copy shall be furnished to the director.

(i) Upon completion of the initial training, all mine rescue team members shall receive at least forty hours of refresher training annually. This training shall be given at least four hours each month, or for a period of eight hours every two months, and shall include:

(1) Sessions underground at least once every six months;

(2) The wearing and use of a breathing apparatus by team members for a period of at least two hours, while under oxygen, once every two months;

(3) Where applicable, the use, care, capabilities and limitations of auxiliary mine rescue equipment, or a different breathing apparatus;

(4) Mine map training and ventilation procedures.

(j) When engaged in rescue work required by an explosion, fire or other emergency at a mine, all members of mine rescue teams assigned to rescue operations shall, during the period of their rescue work, be employees of the operator of the mine where the emergency exists, and shall be compensated by the operator at the rate established in the area for such work. In no case shall this rate be less than the prevailing wage rate in the industry for the most skilled class of inside mine labor. During the period of their emergency employment, members of mine rescue teams shall be protected by the workers' compensation subscription of ~~such emergency employer~~ the mine operator.

(k) During the recovery work and prior to entering any mine at the start of each shift, all rescue or recovery teams shall be properly

informed of existing conditions and work to be performed by the designated company official in charge.

(1) For every two teams performing rescue or recovery work underground, one six-member team shall be stationed at the mine portal.

(2) Each rescue or recovery team performing work with a breathing apparatus shall be provided with a backup team of equal number, stationed at each fresh air base.

(3) The mine operator shall provide two-way communication and a lifeline or its equivalent shall be provided at each fresh air base for all mine rescue or recovery teams and no mine rescue team member shall advance more than one thousand feet in by the fresh air base: *Provided, That if a life may possibly be saved and existing conditions do not create an unreasonable hazard to mine rescue team members, the rescue team may advance a distance agreed upon by those persons directing the mine rescue or recovery operations: Provided, however, That the mine operator shall provide a lifeline or its equivalent ~~shall be provided~~ in each fresh air base for all mine rescue or recovery teams.*

(4) A rescue or recovery team shall immediately return to the fresh air base when the atmospheric pressure of any member's breathing apparatus depletes to sixty atmospheres, or its equivalent.

(1) Mine rescue stations shall provide a centralized storage location for rescue equipment. This storage location may be either at the mine site, affiliated mines or a separate mine rescue structure. All mine rescue teams shall be guided by the mine rescue apparatus and auxiliary equipment manual. Each mine rescue station shall be provided with at least the following equipment:

(1) Twelve self-contained oxygen breathing apparatuses, each with a minimum of two hours capacity, and any necessary equipment for testing such breathing apparatuses;

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatuses and sufficient to sustain each team for six hours while using the breathing apparatuses during rescue operations;

(3) One extra, fully charged, oxygen bottle for each self-contained compressed oxygen breathing apparatus, as required under subdivision (1) of this subsection;

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatuses;

(5) Twelve permissible cap lamps and a charging rack;

(6) Two gas detectors appropriate for each type of gas which may be encountered at the mines served;

(7) Two oxygen indicators ~~or two flame safety lamps~~;

(8) One portable mine rescue communication system or a sound-powered communication system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. The communication system shall be at least one thousand feet in length; and

(9) Necessary spare parts and tools for repairing the breathing apparatuses and communication system, as presently prescribed by the manufacturer.

(m) Mine rescue apparatuses and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatuses shall inspect and test the apparatuses at intervals not exceeding thirty days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and recorded by said person. The certification and corrective action records shall be maintained at the

mine rescue station for a period of one year and made available on request to an authorized representative of the director.

(n) Authorized representatives of the director have the right of entry to inspect any designated mine rescue station.

(o) When an authorized representative finds a violation of any of the mine rescue requirements, the representative shall take appropriate corrective action in accordance with section fifteen of this article.

(p) Operators affiliated with a station issued an order by an authorized representative will be notified of that order and that their mine rescue program is invalid. The operators shall have twenty-four hours to submit to the director a revised mine rescue program.

(q) Every operator of an underground mine shall develop and adopt a mine rescue program for submission to the director within thirty days of the effective date of this statute: *Provided*, That a new program need only be submitted when conditions exist as defined in subsection (p) of this section, or when information contained within the program has changed.

(r) A copy of the mine rescue program shall be posted at the mine and kept on file at the operator's mine rescue station or rescue station affiliate and the state regional office where the mine is located. A copy of the mine emergency notification plan filed pursuant to 30 CFR §49.9(a) will satisfy the requirements of subsection (q) of this section if submitted to the director.

(s) The operator shall immediately notify the director of any changed conditions materially affecting the information submitted in the mine rescue program.

**ARTICLE 1A. OFFICE OF MINERS' HEALTH, SAFETY AND
TRAINING; ADMINISTRATION;
SUBSTANCE ABUSE.**

§22A-1A-2. Board of Appeals hearing procedures.

(a) Any hearing conducted after the temporary suspension of a certified person's certificate pursuant to this article, shall be conducted within sixty days of the temporary suspension. The Board of Appeals shall make every effort to hold the hearing within forty days of the temporary suspension.

(b) All hearings of the Board of Appeals pursuant to this section shall be conducted in accordance with the provisions of subsection (c), section thirty-one, article one of this chapter.

In addition to the rules and procedures in section thirty-one, article one of this chapter in hearings under this section, the Board of Appeals may accept as evidence a notarized affidavit of drug testing procedures and results from a Medical Review Officer (MRO) in lieu of live testimony by the MRO. If the Board of Appeals desires testimony in lieu of a notarized affidavit, the MRO may testify under oath telephonically or by an Internet based program in lieu of physically attending the hearing.

The Board of Appeals may suspend the certificate or certificates of a certified person for violation of this article or for any other violation of this chapter pertaining to substance abuse. The Board of Appeals may impose further disciplinary actions for repeat violations. The director shall have the authority to propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to establish the disciplinary actions referenced in this section following the receipt of recommendations from the Board of Coal Mine Health and Safety following completion of the study required pursuant to section fourteen, article six of this chapter. The legislative rules authorized by this subsection shall not, however, include any provisions requiring an employer to take or refrain from taking any specific personnel action or mandating any employer to establish or maintain an employer-funded substance abuse rehabilitation program.

(c) No person whose certification is suspended or revoked under this section may perform any duties under any other certification issued

under this chapter, during the period of the suspension imposed by the board of Appeals.

(d) Any party adversely affected by a final order or decision issued by the board of Appeals hereunder is entitled to judicial review thereof pursuant to section four, article five, chapter twenty-nine-a of this code.

ARTICLE 2. UNDERGROUND MINES.

§22A-2-3. Fans.

(a) The ventilation of mines, the systems for which extend for more than two hundred feet underground and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. Ventilation by means of a furnace is prohibited in any mine. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the director. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or the operator's management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in fifteen minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be reexamined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in fifteen minutes, all underground employees shall be removed from the mine, all power shall be cut off in a timely manner, and the underground employees shall not return until ventilation is restored and the mine examined by certified persons, mine examiners or other persons holding a certificate to make preshift examination. If ventilation is restored to the mine before miners reach the surface, the miners may return to underground working areas only after an examination of the areas is made by a certified person and the areas are determined to be safe.

(b) All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than fifteen feet from the nearest side of the mine opening, equipped with fireproof air ducts, provided with explosion doors or a weak wall, and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: *Provided*, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: *Provided, however*, That there is another opening having a weak-wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

(c) Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: *Provided*, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

(d) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

(e) In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends and idle shifts shall be provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

(f) The director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

(g) In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of the air current changed without the approval of the general mine foreman, and, if he or she is not immediately available, a representative of the Office of Miners' Health, Safety and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

§22A-2-8. Duties; ventilation; loose coal, slate or rocks; props; drainage of water; man doors; instruction of apprentice miners.

(a) The duties of the mine foreman shall be to keep a careful watch over the ventilating apparatus, the airways, traveling ways, pumps and drainage. He or she shall see that, as the miners advance their excavations, proper breakthroughs are made so as to ventilate properly the mine; that all loose coal, slate and rock overhead in the working places and along the haulways are removed or carefully secured so as to prevent danger to persons employed in such mines, and that sufficient suitable props, caps, timbers, roof bolts or other approved methods of roof supports are furnished for the places where they are to be used and delivered at suitable points. The mine foreman shall have all water drained or hauled out of the working places where practicable, before the miners enter, and such working places shall be kept dry as far as practicable while the miners are at work. It shall be the duty of the mine foreman to see that proper crosscuts are made and that the ventilation is conducted by means of such crosscuts through the rooms by means of checks or doors placed on the entries or other suitable places, and he or she shall not permit any room to be opened in advance of the ventilation current. The mine foreman, or other certified persons designated by him or her, shall measure the air current

with an anemometer or other approved device at least weekly at the inlet and outlet at or near the faces of the advanced headings, and shall keep a record of such measurements in a book or upon a form prescribed by the director. Signs directing the way to outlets or escapeways shall be conspicuously placed throughout the mine.

(b) After July 1, 1971, hinged man doors, at least thirty inches square or the height of the coal seam, shall be installed between the intake and return at intervals of three hundred feet when the height of the coal is below forty-eight inches and at intervals of ~~five~~ six hundred feet when the height of the coal is above forty-eight inches.

(c) The duties of the mine foreman and assistant mine foreman shall include the instruction of apprentice miners in the hazards incident to any new work assignments; to assure that any individual given a work assignment in the working face without prior experience on the face is instructed in the hazards incident thereto and supervised by a miner with experience in the tasks to be performed.

§22A-2-14. Safety inspections; removal of gases.

It shall be the duty of the mine foreman, assistant mine foreman or fire boss to examine all working places under his or her supervision for hazards at least once every two hours during each coal-producing shift, or more often if necessary for safety. In all mines such examinations shall include tests with an approved detector for methane and oxygen deficiency. ~~which tests for oxygen deficiency may be with a permissible flame safety lamp: *Provided*, That a flame safety lamp may be used for methane testing when a malfunction occurs with a methane detector~~ It shall also be his or her duty to remove as soon as possible after its discovery any accumulations of explosive or noxious gases in active workings, and where practicable, any accumulations of explosive or noxious gases in the worked out and abandoned portions of the mine. It shall be the duty of the mine foreman, assistant mine foreman or fire boss to examine each mine within three hours prior to

the beginning of a shift and before any miner in such shift enters the active workings of the mine.

§22A-2-20. Preparation of danger signal by fire boss or certified person acting as such prior to examination; report; records open for inspection.

(a) It is the duty of the fire boss, or a certified person acting as such, to prepare a danger signal (a separate signal for each shift) with red color at the mine entrance at the beginning of his or her shift or prior to his or her entering the mine to make his or her examination and, except for those persons already on assigned duty, no person except the mine owner, operator or agent, and only then in the case of necessity, shall pass beyond this danger signal until the mine has been examined by the fire boss or other certified person and the mine or certain parts thereof reported by him or her to be safe. When reported by him or her to be safe, the danger sign or color thereof shall be changed to indicate that the mine is safe in order that employees going on shift may begin work. Each person designated to make the fire boss examinations shall be assigned a definite underground area of the mine, and, in making his or her examination shall examine all active working places in the assigned area and make tests with an approved device for accumulations of methane and oxygen deficiency; examine seals and doors; examine and test the roof, face and ribs in the working places and on active roadways and travelways, approaches to abandoned workings, accessible falls in active sections and areas where any person is scheduled to work or travel underground. He or she shall place his or her initials and the date at or near the face of each place he or she examines. Should he or she find a condition which he or she considers dangerous to persons entering the areas, he or she shall place a conspicuous danger sign at all entrances to the place or places. Only persons authorized by the mine management may enter the places while the sign is posted and only for the purpose of eliminating the dangerous condition. Upon completing his or her examination he or she shall report by suitable communication system or in person the results of this examination to a certified person trained as a certified miner

with at least two years mining experience designated by mine management to receive and record the report, at a designated station on the surface of the premises of the mine or underground, before other persons enter the mine to work in coal-producing shifts. He or she shall also record the results of his or her examination with ink or indelible pencil in a book prescribed by the director, kept for the purpose at a place on the surface of the mine designated by mine management. All records of daily and weekly reports, as prescribed herein, shall be open for inspection by interested persons.

(b) *Supplemental examination.* — When it becomes necessary to have workers enter areas of the mine not covered during the preshift examination, a supplemental examination shall be performed by a fire boss or certified person acting as such within three hours before any person enters the area. The fire boss or certified person acting as such shall examine the area for hazardous conditions, determine if air is traveling in its proper direction and test for oxygen deficiency and methane.

(c) Each examined area shall be certified by date, time and the initials of the examiner.

(d) The results of the examination shall be recorded with ink or indelible pencil by the examiner in the book referenced in subsection (a) of this section before he or she leaves the mine on that shift.

ROOF—FACE—RIBS

§22A-2-25. Roof control programs and plans; refusal to work under unsupported roof.

(a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal

mine and approved by the director shall be adopted and set out in printed form before new operations. The safety committee of the miners of each mine where such committee exists shall be afforded the opportunity to review and submit comments and recommendations to the director and operator concerning the development, modification or revision of such roof control plans. The plan shall show the type of support and spacing approved by the director. Such plan shall be reviewed periodically, at least every six months by the director, taking into consideration any falls of roof or rib or inadequacy of support of roof or ribs. A copy of the plan shall be furnished to the director or his or her authorized representative and shall be available to the miners and their representatives.

(b) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mine, as the director may prescribe, an ample supply of suitable materials of proper size with which to secure the roof thereof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. When overhangs or brows occur along rib lines they shall be promptly removed. All sections shall be maintained as near as possible on center. Except in the case of recovery work, supports knocked out shall be replaced promptly. Apprentice miners shall not be permitted to set temporary supports on a working section without the direct immediate supervision of a certified miner.

(c) The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof. Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(d) The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(e) No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

(f) The immediate supervisor of each miner who will be engaged in any activity involving the securing of roof or rib during a shift shall, at the onset of any such shift, orally review those parts of the roof control plan relevant to the type of mining and roof control to be pursued by such miner. ~~The time and parts of the plan reviewed shall be recorded in a log book kept for such purpose. Each log book entry so recorded shall be signed by such immediate supervisor making such entry.~~

(g) Any action taken against a miner due, in whole or in part, to his or her refusal to work under unsupported roof, where such work would constitute a violation of this section, is prohibited as an act of discrimination pursuant to section twenty-two, article one of this chapter. Upon a finding of discrimination by the appeals board pursuant to subsection (b), section twenty-two, article one of this chapter, the miner shall be awarded by the appeals board all reliefs available pursuant to subsections (b) and (c), section twenty-two, article one of this chapter.

HOISTING

§22A-2-36. Hoisting machinery; telephones; safety devices; hoisting engineers and drum runners.

(a) The operator of every coal mine worked by shaft shall provide and maintain a metal tube, telephone or other approved means of communication from the top to the bottom and intermediate landings of such shafts, suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and at the bottom of the shaft; a standard means of signaling; an approved safety catch, bridle chains, automatic stopping device, or automatic overwind; a sufficient cover overhead on every cage used for lowering or hoisting persons; an approved safety gate at the top of the shaft; and an adequate brake on the drum of every machine used to lower or hoist persons in such shaft. Such operator shall have the machinery used for lowering and hoisting persons into or out of the mine kept in safe condition, equipped with a reliable indicator, and inspected once in each twenty-four hours by a qualified electrician. Where a hoisting engineer is required, he or she shall be readily available at all times when men are in the mine. He or she shall operate the empty cage up and down the shaft at least one round trip at the beginning of each shift, ~~and after the hoist has been idle for one hour or more before hoisting or lowering men;~~ there shall be cut out around the side of the hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way, not less than five feet high and three feet wide to enable a person to pass the shaft in going from one side of it to the other without passing over or under the cage or other hoisting apparatus. Positive stop blocks or derails shall be placed near the top and at all intermediate landings of slopes and surface inclines and at approaches to all shaft landings. A waiting station with sufficient room, ample clearance from moving equipment, and adequate seating facilities shall be provided where men are required to wait for man trips or man cages, and the miners shall remain in such station until the man trip or man cage is available.

(b) No operator of any coal mine worked by shaft, slope or incline shall place in charge of any engine or drum used for lowering or hoisting persons employed in such mine any but competent and sober engineers or drum runners; and no engineer or drum runner in charge of such machinery shall allow any person, except such as may be

designated for this purpose by the operator, to interfere with any part of the machinery; and no person shall interfere with any part of the machinery; and no person shall interfere with or intimidate the engineer or drum runner in the discharge of his or her duties. Where the mine is operated or worked by shaft or slope, a minimum space of two and one-half square feet per person shall be available for each person on any cage or car where men are transported. In no instance shall more than twenty miners be transported on a cage or car without the approval of the director. No person shall ride on a loaded cage or car in any shaft, slope, or incline: *Provided*, That this does not prevent any trip rider from riding in the performance of his or her authorized duties. No engineer is required for automatically operated cages, elevators, or platforms. Cages and elevators shall have an emergency power source unless provided with other escapeway facilities.

(c) Each automatic elevator shall be provided with a telephone or other effective communication system by which aid or assistance can be obtained promptly.

(d) A 'stop' switch shall be provided in the automatic elevator compartment that will permit the elevator to be stopped at any location in the shaft.

§22A-2-55. Protective equipment and clothing.

(a) Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles or other eye hazards.

(b) Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

(c) Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntleted cuffs shall not be worn around moving equipment.

(d) Safety hats and safety-toed shoes shall be worn by all persons while in or around a mine: *Provided*, That metatarsal guards are not required to be worn by persons when working in those areas of underground mine workings which average less than forty-eight inches in height as measured from the floor to the roof of the underground mine workings.

(e) Approved eye protection shall be worn by all persons while being transported in open-type man trips.

(f) (1) A self-contained self-rescue device approved by the director shall be worn by each person underground or kept within his or her immediate reach and the device shall be provided by the operator. The self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. Each operator shall train each miner in the use of the device and refresher training courses for all underground employees shall be held once each quarter. Quarters shall be based on a calendar year.

(2) In addition to the requirements of subdivision (1) of this subsection, the operator shall also provide caches of additional self-contained self-rescue devices throughout the mine in accordance with a plan approved by the director. Each additional self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. The total number of additional self-contained self-rescue devices, the total number of storage caches and the placement of each cache throughout the mine shall be established by rule pursuant to subsection (i) of this section. A luminescent sign with the words 'SELF-CONTAINED SELF-RESCUER' or 'SELF-CONTAINED SELF-RESCUERS' shall be conspicuously posted at each cache and luminescent direction signs shall be posted leading to each cache. Lifeline cords or other similar device, with reflective material at twenty-five foot intervals, shall be attached to each cache from the last open crosscut to the surface. The operator shall conduct weekly inspections of each cache and each lifeline cord or other similar device to ensure operability.

(3) Any person that, without the authorization of the operator or the director, knowingly removes or attempts to remove any self-contained self-rescue device or lifeline cord from the mine or mine site with the intent to permanently deprive the operator of the device or lifeline cord or knowingly tampers with or attempts to tamper with the device or lifeline cord shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than \$10,000 nor more than \$100,000, or both.

(g) (1) A wireless emergency communication device approved by the director and provided by the operator shall be worn by each person underground: Provided, That if a miner's wireless emergency communications device shall malfunction or cease to operate then such miner shall be assigned to be in sight or sound of a certified miner until such time an operating device shall be delivered. The wireless emergency communication device shall, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

(2) Any person that, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless emergency communication device or related equipment, from the mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than \$10,000 nor more than \$100,000, or both fined and confined.

(h) (1) A wireless tracking device approved by the director and provided by the operator shall be worn by each person underground. In

the event of an accident or other emergency, the tracking device shall, at a minimum, be capable of providing real-time monitoring of the physical location of each person underground: *Provided*, That no person shall discharge or discriminate against any miner based on information gathered by a wireless tracking device during nonemergency monitoring. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

(2) Any person that, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless tracking device or related equipment, approved by the director, from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than \$10,000 nor more than \$100,000, or both fined and confined.

(i) The director may promulgate emergency and legislative rules to implement and enforce this section pursuant to the provisions of article three, chapter twenty-nine-a of this code.

§22A-2-66. Accident; notice; investigation by Office of Miners' Health, Safety and Training.

(a) For the purposes of this section, the term 'accident' means:

(1) The death of an individual at a mine;

(2) An injury to an individual at a mine which has a reasonable potential to cause death;

(3) The entrapment of an individual;

(4) The unplanned inundation of a mine by a liquid or gas;

(5) The unplanned ignition or explosion of gas or dust;

(6) The unplanned ignition or explosion of a blasting agent or an explosive;

(7) An unplanned fire in or about a mine not extinguished within five minutes of ignition;

(8) An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(9) A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour;

(10) An unstable condition at an impoundment, refuse pile or culm bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area, or the failure of an impoundment, refuse pile or culm bank;

(11) Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty minutes; and

(12) An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.

(b) Whenever any accident occurs in or about any coal mine or the machinery connected therewith, it is the duty of the operator or the mine foreman in charge of the mine to give notice, within fifteen minutes of ascertaining the occurrence of an accident, to the Mine and Industrial Accident Emergency Operations Center at the statewide telephone number established by the Director of the Division of Homeland Security and Emergency Management pursuant to the provisions of article five-b, chapter fifteen of this code stating the particulars of the accident: *Provided*, That the operator or the mine

foreman in charge of the mine may comply with this notice requirement by immediately providing notice to the appropriate local organization for emergency services as defined in section eight, article five of said chapter, or the appropriate local emergency telephone system operator as defined in article six, chapter twenty-four of this code: *Provided, however,* That if, immediately upon ascertaining the occurrence of an accident, the operator or the mine foreman in charge of the mine provides notice to the local organization for emergency services as defined in section eight, article five, chapter fifteen of this code, or the appropriate local emergency telephone system operator as defined in article six, chapter twenty-four of this code, then, in order to comply with this subsection, the operator or mine foreman in charge of the mine shall also give notice to the Mine and Industrial Accident Emergency Operations Center at the statewide number identified in this subsection within fifteen minutes of completing the telephone call to the local organization for emergency services or the appropriate local emergency telephone system operator, as applicable: *Provided further,* That nothing in this subsection shall be construed to relieve the operator from any reporting or notification requirement under federal law.

(c) The Director of the Office of Miners' Health, Safety and Training shall impose, pursuant to rules authorized in this section, a civil administrative penalty of up to \$100,000 on the operator if it is determined that the operator or the mine foremen in charge of the mine failed to give immediate notice as required in this section. The director may later amend the assessment of a penalty under this section if so warranted: *Provided,* That the director may waive imposition of the civil administrative penalty at any time if he or she finds that the failure to give immediate notice was caused by circumstances wholly outside the control of the operator: *Provided, however,* That the assessment of the civil administrative penalty set forth in this subsection may be appealed to the Board of Appeals, and the Board of Appeals may, by ~~unanimous vote~~ a vote of two Board of Appeals Members, reduce the amount of the civil administrative penalty upon

a finding of mitigating circumstances warranting the imposition of a lesser amount.

(d) If anyone is fatally injured, the inspector shall immediately go to the scene of the accident and make recommendations and render assistance as he or she may deem necessary for the future safety of the men and investigate the cause of the explosion or accident and make a record. He or she shall preserve the record with the other records in his or her office. The cost of the investigation records shall be paid by the Office of Miners' Health, Safety and Training. A copy shall be furnished to the operator and other interested parties. To enable him or her to make an investigation, he or she has the power to compel the attendance of witnesses and to administer oaths or affirmations. The director has the right to appear and testify and to offer any testimony that may be relevant to the questions and to cross-examine witnesses.

§22A-2-77. ~~Monthly~~ Quarterly report by operator of mine; exception as to certain inactive mines.

On or before the end of each ~~calendar month~~ quarter, the operator of each mine, regulated under the provisions of this chapter or article three or four, chapter twenty-two of this code, shall file with the director a report with respect thereto covering the next preceding ~~calendar month~~ quarter which shall reflect the number of accidents which have occurred at each such mine, the number of persons employed, the days worked and the actual raw tonnage mined. Quarters are based on a calendar year. Such report shall be made upon forms furnished by the director. Other provisions of this section to the contrary notwithstanding, no such report shall be required with respect to any mine on approved inactive status if no employees were present at such mine at any time during the next preceding calendar month.

ARTICLE 7. BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION

§22A-7-7. Continuing education requirements for underground mine foreman-fire boss.

(a) ~~An existing underground mine foreman-fire boss certified pursuant to this article shall complete the continuing education requirements in this section within two years from the effective date of this section and every two years thereafter.~~ An underground mine foreman-fire boss certified pursuant to this article on or after the effective date of this section shall complete the continuing education requirements in this section within two years of their certification and every two years thereafter. The continuing education requirements of this section may not be satisfied by the completion of other training requirements mandated by the provisions of this chapter.

(b) In order to receive continuing education credit pursuant to this section, a mine foreman-fire boss shall satisfactorily complete a mine foreman-fire boss continuing education course approved by the board and taught by a qualified instructor approved by the director. The mine foreman-fire boss shall not suffer a loss in pay while attending a continuing education course. The mine foreman-fire boss shall submit documentation to the office certified by the instructor that indicates the required continuing education has been completed prior to the deadlines set forth in this subsection: *Provided*, That a mine foreman-fire boss may submit documentation of continuing education completed in another state for approval and acceptance by the board.

(c) The mine foreman-fire boss shall complete at least eight hours of continuing education every two years.

(d) The content of the continuing education course shall include, but not be limited to:

(1) Selected provisions of this chapter and 30 U. S. C. §801, *et. seq.*;

(2) Selected provisions of the West Virginia and federal underground coal mine health and safety rules and regulations;

(3) The responsibilities of a mine foreman-fire boss;

(4) Selected policies and memoranda of the Office of Miners' Health, Safety and Training, the ~~board~~ Board of Coal Mine Health and Safety, ~~and the board~~ Board of Miner Training, Education and Certification, and from any safety analysis performed by the company.

(5) A review of fatality and accident trends in underground coal mines; and

(6) Other subjects as determined by the Board of Miner Training, Education and Certification. The Board shall solicit input from mining companies on the substance of the training and discuss how the training shall be scheduled during the year.

(e) The board may approve alternative training programs tailored to specific mines.

(f) ~~Failure~~ A mine foreman-fire boss who fails to complete the requirements of this section shall ~~result in suspension of a mine foreman-fire boss certification~~ have his or her certification suspended pending completion of the continuing education requirements. During the pendency of the suspension, the individual may not perform statutory duties assigned to a mine foreman-fire boss under West Virginia law. The office shall send notice of any suspension to the last address the certified mine foreman-fire boss reported to the director. If the requirements are not met within two years of the suspension date, the director may file a petition with the board of appeals pursuant to the procedures set forth in section thirty-one, article one of this chapter and, upon determining that the requirements have not been met, the Board of Appeals may revoke the mine foreman-fire boss' certification, which shall not be renewed except upon successful completion of the examination prescribed by law for mine foremen-fire bosses or upon completion of other training requirements established by the board: *Provided*, That an individual having his or her mine foreman-fire boss certification suspended pursuant to this section who also holds a valid mine foreman-fire boss certification from another

state may have the suspension lifted by completing training requirements established by the board.

(g) The office shall make a program of instruction that meets the requirements for continuing education set forth in this section regularly available in regions of the state, based on demand, for individuals possessing mine foreman-fire boss certifications who are not serving in a mine foreman-fire boss capacity: *Provided*, That the office may collect a fee from program participants to offset the cost of the program.

(h) The office shall make available to operators and other interested parties a list of individuals whose mine foreman-fire boss certification is in suspension or has been revoked pursuant to this section.”

The bill was then ordered to engrossment and third reading.

H. B. 4734, Relating to mine subsidence insurance; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4735, Relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4739, Unclaimed Life Insurance Benefits Act; on second reading, coming up in regular order, was read a second time, advanced to third reading with the right to amendment, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Delegate E. Nelson asked and obtained unanimous consent to return to further consideration of **Com. Sub. for H. B. 2704**, West Virginia Consumer Sales and Service Use tax.

Delegate E. Nelson then moved that the bill be tabled.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 275**), and there were—yeas 92, nays 2, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Blair and Moffatt.

Absent and Not Voting: Deem, Hornbuckle, Marcum, McCuskey, Moore and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the motion to table the bill prevailed.

First Reading

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

Com. Sub. for H. B. 4035, Permitting pharmacists to furnish naloxone hydrochloride,

Com. Sub. for H. B. 4046, Relating to the promulgation of rules by the Department of Administration,

Com. Sub. for H. B. 4168, Creating a special motor vehicle collector license plate,

Com. Sub. for H. B. 4196, Relating to abandoned antique vehicles,

Com. Sub. for H. B. 4239, Relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia,

H. B. 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library,

Com. Sub. for H. B. 4301, Relating to a framework for initiating comprehensive transformation of school leadership,

Com. Sub. for H. B. 4308, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims,

H. B. 4345, Repealing the West Virginia Permitting and Licensing Information Act,

H. B. 4364, Internet Privacy Protection Act,

Com. Sub. for H. B. 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects,

Com. Sub. for H. B. 4537, Relating to the regulation of chronic pain clinics,

Com. Sub. for H. B. 4586, Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways,

H. B. 4616, Permitting county commissions the option of paying the salaries of county officials and their employees on a bi-weekly basis,

Com. Sub. for H. B. 4668, Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services,

H. B. 4724, Relating to adding a requirement for the likelihood of imminent lawless action to the prerequisites for the crime of intimidation and retaliation,

H. B. 4736, Relating to the pawn of gift cards,

H. B. 4737, Relating to increased penalties for manufacturing or transportation of a controlled substance in the presence of a minor,

H. B. 4738, Relating to the offense of driving in an impaired state,

And,

H. B. 4740, Permitting that current members of the National Guard or Reserves may be excused from jury duty.

Delegate Morgan asked and obtained unanimous consent that he be removed as a sponsor of Com. Sub. for H. B. 2704.

Miscellaneous Business

Delegate Longstreth noted to the Clerk that she was absent when the vote was taken on Roll No. 255, and that had she been present, she would have voted “Yea” thereon.

Delegates Eldridge and Moffatt announced that they were absent when the vote was taken on Roll No. 254, and that had they been present, they would have voted “Yea” thereon.

Delegate E. Nelson noted to the Clerk that he was absent when the vote was taken on Roll No. 256, and that had he been present, he would have voted “Yea” thereon.

Delegate Kurcaba announced that he was absent when the vote was taken on Roll No. 252, and that had he been present, he would have voted “Nay” thereon; and on Roll No. 258, he would have voted “Yea” thereon.

Delegate Perdue announced that he was absent on the following Roll Nos., and had he been present he would have voted as follows: Roll No. 251 - “Nay”, Roll No. 252 - “Yea”, Roll No. 253 - “Nay”, Roll No. 254 - “Yea”, Roll No. 255 - “Yea”, Roll No. 256 - “Nay”, Roll No. 257 - “Yea”, Roll No. 258 - “Yea” and Roll No. 259 - “Yea”.

Remarks by Members

Delegate Blair asked and obtained unanimous consent that the remarks of Delegate Kessinger regarding Com. Sub. for S. B. 10,

Creating Unborn Child Protection from Dismemberment Abortion Act, be printed in the Appendix to the Journal.

Delegate Pushkin asked and obtained unanimous consent that the remarks of Delegates Caputo and Manchin regarding Com. Sub. for H. B. 4352, Relating to the selling of certain state owned health care facilities by the Secretary of the Department of Health and Human Resources be printed in the Appendix to the Journal.

At 5:53 p.m, the House of Delegates adjourned until 9:00 a.m., Tuesday, March 1, 2016.

TUESDAY, MARCH 1, 2016

FORTY-NINTH DAY

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Monday, February 29, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 597, on Third Reading, Special Calendar, to the House Calendar; and H. B. 4728, on Second Reading, House Calendar, to the Special Calendar.

Delegate Cowles asked and obtained unanimous consent to be added as a cosponsor of H. B. 2704.

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 29th day of February, 2016, 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. 3019**), Requiring official business and records of the state and its political subdivisions be conducted in English,

(**S. B. 341**), Expiring funds from Insurance Commissioner, Examination Revolving Fund and Insurance Commission Fund to State Fund, General Revenue,

(**S. B. 351**), Dedicating severance tax proceeds,

(**S. B. 449**), Supplemental appropriation from State Fund, General Revenue to Department of Administration, Public Defender Services,

(**S. B. 450**), Supplemental appropriation from State Fund, General Revenue to DHHR, Division of Health,

(**S. B. 451**), Supplemental appropriation from State Fund, General Revenue to Department of Military Affairs,

And,

(**S. B. 462**), Reducing deposit of excess lottery proceeds into WV Infrastructure Fund.

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

Your Committee on Finance has had under consideration:

S. B. 352, Dedicating corporation net income tax proceeds to railways,

And,

Com. Sub. for S. B. 582, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 476, Relating to driving restrictions in school zones,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 274, Relating to increasing civil jurisdictional amount in magistrate courts,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 254, Not allowing county park commissions to prohibit firearms in facilities,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 379, Relating to candidate filing fees,

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

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on February 29, 2016, he approved **S. B. 419**.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for S. B. 47 - "A Bill to amend and reenact §30-3-13 of the Code of West Virginia, 1931, as amended, relating to practice of medicine; rewriting licensing requirements for practice of medicine and surgery or podiatry; making exceptions; providing for unauthorized practice; requiring notice; establishing criminal penalties;

making exceptions; and defining terms”; which was referred to the Committee on Health and Human Resources then Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 287 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-3E-1, §21-3E-2, §21-3E-3, §21-3E-4, §21-3E-5, §21-3E-6, §21-3E-7, §21-3E-8, §21-3E-9, §21-3E-10, §21-3E-11, §21-3E-12, §21-3E-13, §21-3E-14, §21-3E-15, §21-3E-16 and §21-3E-17, all relating to creating West Virginia Safer Workplaces Act; permitting employers to test employees and prospective employees for drugs and alcohol; providing a short title; defining terms; making findings; declaring public policy; clarifying exceptions to the applicability of the West Virginia Safer Workplaces Act for employers covered by other drug and alcohol testing statutes; determining a collection of samples, scheduling of tests and testing procedures; providing for ability to request split sample be tested to challenge a positive test result; establishing responsibility for cost of split sample testing; setting forth testing policy requirements; providing for disciplinary procedures; providing for sensitive employees; providing for preemption; providing protection from liability; establishing causes of action; providing exceptions; providing for confidentiality; providing for termination of employment; providing for forfeiture of certain benefits; clarifying that the drug and alcohol testing provisions of the West Virginia Safer Workplace Act cannot be used to show intoxication pursuant to section two, article four, chapter twenty-three of this code; and requiring employers to have drug and alcohol testing policies and procedures when implementing drug and alcohol testing”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 303 - “A Bill to amend and reenact §20-2-42o of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §20-2-42z; and to amend and reenact §20-2B-9 of said code, all relating to fishing licenses; and providing Class L resident five-day fishing license”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 344 - “A Bill to amend and reenact §4-5-1, §4-5-2, §4-5-3, §4-5-4, §4-5-5 and §4-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §4-5-7 and §4-5-8, all relating to Commission on Special Investigations; clarifying composition and chairmanship of commission; redefining what constitutes a quorum for voting procedures of commission; clarifying contents of commission’s annual report; listing existing and necessary commission staff positions; defining a person’s or federal or state agency’s duty to cooperate with commission during investigations and requiring persons and agencies to disclose information and documents to commission; establishing requirements for commission to enter into executive session; establishing procedures for conducting executive session; removing requirement that Joint Committee on Government and Finance approve expenses of commission; establishing procedure for commission retention and disposal of records; defining new felony offense of making false statement to commission; setting penalties for making false statement to commission; defining new felony offense of impersonating a commission member or staff member; setting penalties for impersonating a commission member or staff member; allowing the commission award duty weapons to certain members on retirement; and disposal of surplus weapons”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 384 - “A Bill to amend and reenact §9-5-12 of the Code of West Virginia, 1931, as amended, relating to requiring West Virginia Bureau for Medical Services seek federal waiver to provide for exemption from the thirty-day waiting period for a tubal ligation and making stylistic changes”; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 399 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13DD-1, §11-13DD-2, §11-13DD-3, §11-13DD-4, §11-13DD-5, §11-13DD-6 and §11-13DD-7, all relating to creation of farm-to-food bank tax credit; defining terms; providing method for calculation of value of tax credit; limiting tax credit; providing for certification by Department of Agriculture; allowing carryover of unused tax credits for four years; providing for rulemaking; and establishing effective date of tax credit”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 435 - “A Bill to amend and reenact §60-1-5a of the Code of West Virginia, 1931, as amended; to amend and reenact §60-4-3b of said code; and to amend and reenact §60-8-3 of said code, all relating to permitting farm winery licensure as alternating wine proprietorships; and permitting farm wineries to provide samples and off-premises sales at separately licensed fairs and festivals”; which was referred to the Committee on Government Organization then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 594 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding there to a new section, designated §12-3-10g, relating to requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice.”

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 594) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading

A message from the Senate, by

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

S. B. 618 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31-15-12b, relating generally to economic development; and allowing Economic Development Authority to refinance indebtedness of certain licensed commercial whitewater outfitters”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 626 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-24, relating to requiring the Secretary of the Department of Health and Human Resources to seek a waiver within the Supplemental Nutrition Assistance Program to allow that benefits issued under the Supplemental Nutrition Assistance Program be limited to purchases with the same or similar nutritional value as purchases allowable under

the Women's, Infant and Children Program; requiring the secretary to coordinate with appropriate state agencies in seeking the waiver; and requiring the secretary to report to the Legislative Oversight Commission on Health and Human Resources Accountability concerning progress made toward seeking the waiver by December 31, 2017"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 637 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18 and §44-5B-19, all relating to the West Virginia Uniform Fiduciary Access to Digital Assets Act of 2016; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets; addressing terms of service agreements; setting forth procedure for disclosing digital assets; providing for disclosure of content of electronic communications and other digital assets of deceased users; providing for disclosure of content of electronic communications of a principal; addressing disclosure of digital assets of a principal; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of digital assets held in trust when trustee is not an original owner or user; addressing disclosure of digital assets to conservator of a protected person; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; providing for uniformity of application and construction of article; addressing relation of article to electronic signatures in global and national commerce act; providing for severability of article; and setting date when article takes effect"; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Miley, Mr. Speaker (Mr. Armstead), Cowles, Perdue, E. Nelson, Bates, Storch, Rowe, Hamilton, Pushkin, A. Evans, Fluharty, Romine, Pethel, Hornbuckle and Sponaugle offered the following resolution, which was read by the Clerk as follows:

H. R. 17 - “Reaffirming the sister-state relationship between the State of West Virginia and Taiwan and affirming support for Taiwan’s meaningful participation in international organizations.”

Whereas, Taiwan shares the same values of freedom, democracy and human rights with the United States and the State of West Virginia; and

Whereas, August 4, 2016, will mark the 36th anniversary of the sister-state relationship between West Virginia and Taiwan; and

Whereas, For the past 36 years, the sister-state relationship with Taiwan has been strengthened through the efforts of the Taipei Economic and Cultural Representative Office (TECRO) resulting in better mutual understanding; and

Whereas, Taiwan is not only a friendly sister-state of West Virginia but also an important trading partner. In 2014, West Virginia exports to Taiwan were valued at more than \$48 million, making it West Virginia’s 23rd largest export market in the world; and

Whereas, On July 29, 2015, Taiwan signed a reciprocal agreement with West Virginia to recognize driver’s licenses issued by each government, reflecting the friendship, trust, and cooperation between the two governments, which benefits both the people of Taiwan and West Virginia in terms of travel and business; and

Whereas, On January 16, 2016, Taiwan held its sixth direct presidential election and again demonstrated the strength and vitality of its democratic system, showcasing Taiwan as a beacon of democracy for Chinese communities around the world and beyond; and

Whereas, In February, a 6.4 magnitude strong earthquake caused devastation and loss of lives in southern Taiwan, and the sorrow and suffering are deeply felt and shared by the people of West Virginia; and

Whereas, The United States and 11 other countries have signed the Trans-Pacific Partnership (TPP), a 21st century trade agreement that will boost all members' economic growth; Taiwan's inclusion in the TPP will further strengthen bilateral economic relations and enhance the welfare of the United States and benefit all TPP members; and

Whereas, Taiwan has been proven to be a valuable contributor in a broad range of global issues and should be granted access to meaningfully participate in various international organizations including the World Health Organization, the International Civil Aviation Organization, the United Nation Framework Convention on Climate Change and the International Criminal Police Organization; therefore, be it

Resolved by the House of Delegates:

That the Legislature of the State of West Virginia reaffirms the sister-state relationship between the State of West Virginia and Taiwan, affirms support for Taiwan's meaningful participation in international organizations and expresses its condolences towards those affected by the recent earthquake in Taiwan; and, be it

Further Resolved, That a copy of this resolution be sent to Dr. Lyushun Shen, the Representative of the Taipei Economic and Cultural Representative Office in the U.S.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 17) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Special Calendar**Third Reading**

S. B. 558, Maintaining solvency of Unemployment Compensation Fund; on third reading, coming up in regular order, was read a third time.

Delegate Frich requested to be excused from voting on the passage of S. B. 558 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 276**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Duke and Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 558) passed.

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

On this question, the yeas and nays were taken (**Roll No. 277**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Duke and Miller.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 558) takes effect from its passage.

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

Com. Sub. for H. B. 2665, Relating to participation in Motor Vehicle Alcohol Test and Lock Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 278**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Sponaule.

Absent and Not Voting: Duke and Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2665) passed.

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

Com. Sub. for H. B. 2849, Creating the West Virginia Sentencing Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 279**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Miller and J. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2849) passed.

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

Com. Sub. for H. B. 2963, Expanding the definition of kidnapping; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 280**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2963) passed.

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

Com. Sub. for H. B. 4176, Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 281**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Pushkin.

Absent and Not Voting: Kelly and Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4176) passed.

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

Delegate J. Nelson asked and obtained unanimous consent to be added as a cosponsor of H. B. 4740.

Com. Sub. for H. B. 4183, Relating generally to reporting opioid overdoses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 282**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Lane and McGeehan.

Absent and Not Voting: Blackwell and Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4183) passed.

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

Com. Sub. for H. B. 4225, Relating to patriotic displays at public buildings; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 283**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4225) passed.

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

Com. Sub. for H. B. 4240, Relating to the Uniform Controlled Substances Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 284**), and there were—yeas 86, nays 12, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Folk, Guthrie, Hill, Hornbuckle, Ihle, McGeehan, J. Nelson, Pushkin, Rowe, Stansbury and Upson.

Absent and Not Voting: Blair and Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4240) passed.

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

Com. Sub. for H. B. 4248, Relating to methadone regulation; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments and having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 285**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Ihle, Kessinger and McGeehan.

Absent and Not Voting: Hicks, Marcum, Miller and R. Smith.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4248) passed.

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

Com. Sub. for H. B. 4271, Ending discretionary transfers to the Licensed Racetrack Modernization Fund; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 286**), and there were—yeas 62, nays 37, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blackwell, Blair, Byrd, Caputo, Eldridge, Espinosa, D. Evans, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hamilton, Hicks, Hornbuckle, Ihle, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Perdue, Perry, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, Sponaugle, Storch, Trecost, Upson, Weld, P. White and Zatezalo.

Absent and Not Voting: Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4271) passed.

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

On this question, the yeas and nays were taken (**Roll No. 287**), and there were—yeas 75, nays 24, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blackwell, Byrd, Caputo, Ferro, Fluharty, Guthrie, Hamilton, Hicks, Ihle, Marcum, McGeehan, Miley, Moore, Perdue, Pushkin, Rodighiero, Rowe, Skinner, Sponaugle, Storch, Trecost, Upson, Weld and P. White.

Absent and Not Voting: Miller.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4271) takes effect from its passage.

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

Com. Sub. for H. B. 4307, Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas; on third reading, coming up in regular order, with an amendment pending and the further right to amend, was reported by the Clerk.

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

“That §20-2-19a of the Code of West Virginia, 1931, as amended, be repealed; and that §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.

Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging or active illumination while hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the use of artificial light or night vision technology. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than ten days nor more than one hundred days;

(4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping or killing;

(6) Take any beaver or muskrat by any means other than a trap;

(7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear, wild turkey, ruffed grouse, pheasant or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;

(9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas or state rail trails with the following permissible exceptions: *Provided, That*

nothing in this subsection shall be construed as authorizing any county or municipality to limit the right of any person to possess, transfer, own, carry or transport any firearm or ammunition:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds where hunting is lawful;

(B) A person hunting or taking unprotected species of wild animals, wild birds and migratory wild birds during the open season, in the open fields, open water and open marshes of the state where hunting is lawful;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; ~~or~~

(D) A person carrying a firearm handgun for self-defense who is not prohibited from possessing firearms ~~by section seven, article seven, chapter sixty-one of this code; or~~

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: *Provided, That this exception does not apply to an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and marked trails within state park and/or state forest borders or on state rail trails;*

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its attachments,. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period

from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken, ~~after the hour of five o'clock ante meridian on Sunday~~ any wild animals or wild birds on private land without the written consent of the landowner. ~~any wild animals or wild birds except when a big game season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps previously and legally set may be tended after the hour of five o'clock ante meridian on Sunday and the person tending the traps may carry firearms for the purpose of humanely dispatching trapped animals.~~ Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;

(12) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

(13) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(14) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod, line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

(15) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal

or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;

(16) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, et seq., and its regulations;

(17) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild bird other than a game bird including the plumage, skin or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which maybe killed at anytime;

(18) Use dynamite, explosives or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(19) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

(20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

(21) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(22) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

(23) Shoot an arrow across any public highway;

(24) Permit any dog owned or under his or her control to chase, pursue or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

(25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

(26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;

(27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

~~(28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian: *Provided*, That the provisions of this subdivision do not apply in any county until the county commission of the county holds an election on the question of whether the provisions of this subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the allowance of hunting on Sunday in the county. The election is~~

determined by a vote of the resident voters of the county in which the hunting on Sunday is proposed to be authorized. The county commission of the county in which Sunday hunting is proposed shall give notice to the public of the election by publication of the notice as a Class H-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election:

On the local option election ballot shall be printed the following:

Shall hunting on Sunday be authorized on private lands only with the consent of the land owner in _____ County?

Yes

No

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

Any local option election to approve or disapprove of the proposed authorization of Sunday hunting within a county shall be in accordance with procedures adopted by the commission. The local option election may be held in conjunction with a primary or general election or at a special election.

Approval shall be by a majority of the voters casting votes on the question of approval or disapproval of Sunday hunting at the election.

If a majority votes against allowing Sunday hunting, an election on the issue may not be held for a period of one hundred four weeks. If a majority votes "yes", an election reconsidering the action may not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which Sunday hunting is

~~authorized. The petition may be in any number of counterparts. The election shall take place at the next primary or general election scheduled more than ninety days following receipt by the county commission of the petition required by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory notice requirements have been met. No local law or regulation providing any penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict with this subdivision.~~

Amendments to this subdivision promulgated during the ~~2015~~ 2016 regular session of the Legislature shall have no effect upon the results of elections held prior to their enactment; and

~~(29)~~ (28) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia.

§20-2-42g. Class H nonresident small game hunting license.

A Class H license is a nonresident small game hunting license and entitles the licensee to hunt small game in all counties of the state, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee; ~~excluding Sunday in counties closed to Sunday hunting.~~ The fee for the license is \$25. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

§20-2-42h. Class J nonresident small game shooting preserve license.

A Class J license is a nonresident small game shooting preserve license and entitles the licensee to hunt small game on designated shooting preserves, except as prohibited by rules of the Director or

Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee, ~~excluding Sunday in counties closed to Sunday hunting~~. The fee for the license is \$10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the amendment was not germane to the fundamental purpose of the bill.

Having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 288**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Moore.

Absent and Not Voting: Campbell, Foster and Miller.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4307) passed.

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

At 11:54 a.m., on motion of Delegate Cowles, the House of Delegates recessed for thirty minutes.

Com. Sub. for H. B. 4314, Prohibiting the sale of powdered or crystalline alcohol; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 289**), and there were—yeas 88, nays 3, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Ihle, McGeehan and Pushkin.

Absent and Not Voting: Byrd, A. Evans, Fluharty, Guthrie, Hamilton, Hartman, Morgan, Reynolds and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4314) passed.

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

H. B. 4428, Clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified; on third reading, coming up in regular order, was read a third time.

Delegate Stansbury requested to be excused from voting on the passage of H. B. 4428 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 290**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: A. Evans, Guthrie, Hamilton and Morgan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4428) passed.

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

Com. Sub. for H. B. 4438, Relating to the involuntary examination of individuals experiencing a psychiatric emergency or mental illness; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was ordered to engrossment and third reading.

Having been engrossed, the bill was then read a third time.

Delegate Cowles asked and obtained unanimous consent that the bill be postponed one day.

Com. Sub. for H. B. 4466, Relating to public school support; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 291**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4466) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 292**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Marcum.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4466) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4480, The Ryan Brown Addiction Treatment Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 293**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Azinger, Blackwell, Fleischauer, Hamilton, Kessinger, McGeehan, Moore, Perry, Rowe and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4480) passed.

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

Com. Sub. for H. B. 4500, Oil and Gas Royalty Payment and Transparency Act of 2016; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was ordered to engrossment and third reading.

Having been engrossed, the bill was then read a third time.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on questions related to Com. Sub. for H. B. 4500 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Delegate Howell requested to be excused from voting on the passage of Com. Sub. for H. B. 4500 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting

Mr. Speaker, Mr. Armstead, in the Chair

Delegate Fast requested to be excused from voting on the passage of Com. Sub. for H. B. 4500 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 294**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Ihle and McGeehan.

Absent and Not Voting: Trecost.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4500) passed.

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

Com. Sub. for H. B. 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran; on third reading, coming up in regular order, was read a third time.

Delegates J. Nelson and Upson requested to be excused from voting on the passage of Com. Sub. for H. B. 4507 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as members of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 295**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4507) passed.

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

Com. Sub. for H. B. 4517, Limiting the ability of an agent under a power of attorney to take self-benefiting actions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 296**), and there were—yeas 89, nays 11, absent and not voting none, with the nays being as follows:

Nays: Arvon, Azinger, Fast, Howell, Ihle, Marcum, McGeehan, J. Nelson, Rodighiero, Shaffer and Wagner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4517) passed.

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

Com. Sub. for H. B. 4542, Allowing persons with property within rural fire protection districts to opt out of fire protection coverage; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was ordered to engrossment and third reading.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 297**), and there were—yeas 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Caputo, Eldridge, Foster, Kelly, Manchin and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4542) passed.

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

Com. Sub. for H. B. 4561, Creating a special hiring process for West Virginia Division of Highways employees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 298**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: P. Smith.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4561) passed.

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

Com. Sub. for H. B. 4566, Relating to school personnel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 299**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4566) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 300**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Marcum and Moye.

Absent and Not Voting: Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4566) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4575, Creating criminal offenses relating to money laundering; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 301**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4575) passed.

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

Com. Sub. for H. B. 4576, Increasing the penalties for transporting controlled substances into the state; on third reading, coming up in regular order, was read a third time.

Delegate Perdue asked unanimous consent that the bill be recommitted to the Committee on the Judiciary, which consent was not given, objections being heard.

Delegate Perdue moved that the bill be recommitted to the Committee on the Judiciary.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 302**), and there were—yeas 45, nays 55, absent and not voting none, with the yeas being as follows:

Yeas: Anderson, Bates, Blackwell, Blair, Boggs, Border, Byrd, Campbell, Caputo, Cowles, Eldridge, D. Evans, Faircloth, Ferro, Flanigan, Fleischauer, Fluharty, Folk, Guthrie, Hamilton, Hartman, Hornbuckle, Ihle, Lane, Longstreth, Lynch, Manchin, McGeehan, Miley, Miller, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Pethel, Pushkin, Reynolds, Rowe, Skinner, Sponaugle, Trecost, Upson and P. White.

So, a majority of the members present and voting not having voted in the affirmative, the motion to recommit the bill to the Committee on the Judiciary was rejected.

Delegate Caputo moved to table the bill.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 303**), and there were—yeas 59, nays 40, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Ambler, Arvon, Azinger, Butler, Cooper, Cowles, Deem, Duke, Ellington, Espinosa, Fast, Foster, Frich, Gearheart, Hamrick, Hanshaw, Howell, Kelly, Kessinger, Kurcaba, Marcum, McCuskey, O’Neal, Overington, Phillips, Rohrbach, Rowan, Shott, P. Smith, R. Smith, Sobonya, Stansbury, Wagner, Walters, Waxman, Weld, Westfall, B. White and Zatezalo.

Absent and Not Voting: Cadle.

So, a majority of the members present and voting having voted in the affirmative, the motion to table Com. Sub. for H. B. 4576 prevailed.

Com. Sub. for H. B. 4577, Creating an additional penalty for use of a firearm in furtherance of a drug offense; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 304**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Foster, Ihle and McGeehan.

Absent and Not Voting: Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4577) passed.

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

H. B. 4578, Creating a criminal offense of conspiracy to violate the drug laws; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 305**), and there were—yeas 85, nays 15, absent and not voting none, with the nays being as follows:

Nays: Flanigan, Fleischauer, Fluharty, Guthrie, Hill, Hornbuckle, Ihle, Lane, McGeehan, Moffatt, Pushkin, Rowe, Sponaule, Stansbury and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4578) passed.

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

Com. Sub. for H. B. 4608, Requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice; on third reading, coming up in regular order, with the right to amend, was, on motion of Delegate Cowles, postponed one day.

At 3:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed for thirty minutes.

Com. Sub. for H. B. 4625, Redirecting certain racing and gaming revenues from greyhound development funds to the State Road Fund; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, and having been engrossed, the bill was read a third time.

Delegate Byrd asked unanimous that the bill be recommitted to the Committee on Finance, which consent was not given, objection being heard.

Delegate Byrd moved to recommit the bill to the Committee on Finance.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 306**), and there were—yeas 36, nays 63, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Storch, Trecost, Weld and P. White.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the motion to recommit the bill to the Committee on Finance was rejected.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 307**), and there were—yeas 61, nays 36, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Blackwell, Byrd, Caputo, Eldridge, Espinosa, D. Evans, Faircloth, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hartman, Hicks, Householder, Lynch, Manchin, McGeehan, Moore, Morgan, J. Nelson, Perdue, Perry, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, Sponaugle, Storch, Trecost, Upson, Weld, P. White and Zatezalo.

Absent and Not Voting: Deem, Hornbuckle and R. Smith.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4625) passed.

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

Com. Sub. for H. B. 4633, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 308**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Pushkin.

Absent and Not Voting: Deem and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4633) passed.

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

H. B. 4644, Relating to jury fees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 309**), and there were—yeas 97, nays 1, absent

and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Deem and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4644) passed.

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

H. B. 4654, Relating to the Executive Secretary of the Board of Registered Professional Nurses; on third reading, coming up in regular order, was read a third time.

Delegate Campbell requested to be excused from voting on the passage of H. B. 4654 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 310**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cadle and Marcum.

Absent and Not Voting: Deem and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4654) passed.

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

On this question, the yeas and nays were taken (**Roll No. 311**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cadle.

Absent and Not Voting: Deem and Hornbuckle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4654) takes effect from its passage.

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

H. B. 4655, Prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 312**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Folk, Ihle, Marcum, McGeehan and Shaffer.

Absent and Not Voting: Deem and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4655) passed.

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

H. B. 4655 - “A Bill to amend and reenact §33-25E-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-25E-5, all relating to vision care insurance plans; defining terms; prohibiting plans from requiring

vision care providers to provide discounts on noncovered services or materials; prohibiting eye care providers from charging more to enrollees for noncovered services than the normal and customary fee; providing that plans may not provide for a nominal reimbursement in order to claim that a service or material is covered; prohibiting plans from falsely representing benefits provided to sell coverage or communicate benefits to enrollees; prohibiting the requirement that eye care providers be credentialed through a designated vision plan; providing pay parity for optometrist and ophthalmologists; providing that optometrist and ophthalmologist be held to the same credentialing standards; prohibiting eye care providers from being required to accept all plan and discount plans offered by plans in order to be on a panel for the plan; prohibits the plans from changing the terms of an agreement with an eye care provider without communication with and agreement from the eye care provider; permitting eye care providers to use any lab or supplier and notification of contract changes; creating a private right of action for eye care providers; placing limits on charge backs of administrative fees and other recoupments; providing that a plan may not discriminate against a provider based on geographic location of the eye care provider; and authorizing suits for injunctions by persons aggrieved or by Insurance Commissioner and recovery of monetary damages, costs and attorney's fees."

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

Com. Sub. for H. B. 4659, Authorizing local health departments to bill health insurance plans for services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 313**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hornbuckle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4659) passed.

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

Com. Sub. for H. B. 4660, Relating to the information required to be included in support of an application to the Public Service Commission for a certificate of convenience and necessity for a water, sewer and/or stormwater service project; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 314**), and there were, including 2 paired —yeas 70, nays 27, absent and not voting 3, with the paired, nays, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Perdue Nay: J. Nelson

Nays: Boggs, Byrd, Campbell, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Hicks, Marcum, Miley, Moore, Morgan, Moye, Perry, Phillips, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost, Upson and P. White.

Absent and Not Voting: Deem, Hornbuckle and Householder.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4660) passed.

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

Com. Sub. for H. B. 4662, Permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegate Ihle moved to amend the bill on page one, by striking out the sentence beginning on line seven and ending on line eleven.

And,

On page three, line ten, by striking out “\$14” and inserting in lieu thereof “\$11”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 315**), and there were, including 2 paired, —yeas 16, nays 80, absent and not voting 4, with the paired, yeas and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: J. Nelson Nay: Butler

Yeas: Azinger, Caputo, Eldridge, Ferro, Hicks, Householder, Ihle, Lane, Longstreth, Lynch, Marcum, McGeehan, Moore, Perdue and Trecost.

Absent and Not Voting: Blair, Deem, Hornbuckle and Upson.

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

Having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 316**), and there were—yeas 73, nays 22, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Azinger, Butler, Cadle, Duke, Espinosa, Folk, Foster, Gearheart, Hill, Householder, Howell, Ihle, Kelly, Kessinger, Lynch, Marcum, McGeehan, Moffatt, Overington, Rodighiero, Sobonya and Stansbury.

Absent and Not Voting: Blair, Deem, Hornbuckle, J. Nelson and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4662) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 317**), and there were—yeas 85, nays 10, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Azinger, Butler, Cadle, Duke, Hill, Ihle, Lynch, Marcum, McGeehan and Stansbury. Absent and Not Voting: Blair, Deem, Hornbuckle, J. Nelson and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4662) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4673, Providing for a crime for the theft, damage or release of deer from private game farms; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 318**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Ihle and McGeehan.

Absent and Not Voting: Blair, Deem, Hornbuckle, J. Nelson and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4673) passed.

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

H. B. 4685, Relating to professional and occupational board members; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 319**), and there were—yeas 85, nays 10, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Bates, Campbell, Ferro, Fluharty, Longstreth, Manchin, Moye, Perry, Skinner and Stansbury. Absent and Not Voting: Blair, Deem, Hornbuckle, J. Nelson and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4685) passed.

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

H. B. 4696, Creating the unlicensed practice review board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 320**), and there were—yeas 52, nays 44, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Blair, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Gearheart, Guthrie, Hanshaw, Hartman, Hicks, Householder, Lane, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, E. Nelson, Perdue, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Shaffer, Skinner, Sponaule, Summers, Upson, Wagner, Walters and P. White.

Absent and Not Voting: Deem, Hornbuckle, J. Nelson and Perry.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4696) passed.

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

H. B. 4726, Relating to coal mining generally; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 321**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Pushkin, Shaffer and Skinner.

Absent and Not Voting: Deem, Hornbuckle, J. Nelson and Perry.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4726) passed.

On motion of Delegate R. Smith, the title of the bill was amended to read as follows:

H. B. 4726 - “A Bill to repeal §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6c of said code; to amend and reenact §22-1-7 of said code; to amend and reenact §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a, §22-3-30a of said code; to amend said code by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37, §22-3-38 and §22-3-39; to amend and reenact §22-11-6 of said code; to amend and reenact §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19, §22A-1-20, §22A-1-31 and §22A-1-35 of said code; to amend and reenact §22A-1A-2 of said code; to amend and reenact §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55, §22A-2-66 and §22A-2-77 of said code; to amend and reenact §22A-7-7 of said code, all relating generally to coal mining; making findings; eliminating the Department of Environmental Protection Office of Explosives and Blasting and consolidating the remaining duties and responsibilities related to blasting to the Department of Environmental Protection Division of Mining and Reclamation; adding blasting oversight; providing that the Department of Environmental Protection to revise rules on hydrologic protection and stormwater runoff analyses on mining operations and to promulgate rules that conform with the federal regulations requirements to minimize the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas; providing that cumulative hydrologic impact assessment may be conducted; requiring a statement of probable hydrologic consequences and to prevent flooding; modifying certain findings, ventilation requirements, and roof or rib requirements; requiring the Department of Environmental Protection to follow deadlines for approving or denying applications for site specific water quality criteria; providing that state mine rescue teams may serve as backup mine rescue teams for mines in this state; providing that the Board of Mine Health and Safety to have the authority to propose rules for the use of diesel equipment in the state’s mines; transferring certification authority to the Director of the Office of Miners’ Health Safety and Training for mining emergency medical

technicians; requiring the State Board of Appeals to allow evidence of testing procedures and test results be introduced through notarized affidavits from Medical Review Officers and testify if necessary; providing for telephonic testimony under oath; providing that the penalty for not reporting accidents in fifteen minutes to the Office of Miners' Health, Safety and Training be modified to 'up to \$100,000'; providing that the Director of Office of Miners' Health, Safety and Training shall have the authority to modify assessed penalties and penalties may be modified by the State Board of Appeals based on a vote of two Board members; providing a method in case a miners' wireless emergency communications device fails; and allowing company input into state supervisory training and how it is scheduled during the year."

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

H. B. 4734, Relating to mine subsidence insurance; on third reading, coming up in regular order, was read a third time.

Delegate Caputo asked and obtained unanimous consent to be added as a cosponsor of H. B. 4734.

Delegate Walters requested to be excused from voting on the passage of H. B. 4734 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 322**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Azinger and McGeehan.

Absent and Not Voting: Campbell, Deem, Ferro, Guthrie, Hornbuckle, J. Nelson and Perry.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4734) passed.

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

H. B. 4735, Relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 323**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Campbell, Deem, Ferro, Guthrie, Hornbuckle, J. Nelson and Perry.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4735) passed.

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

H. B. 4739, Unclaimed Life Insurance Benefits Act; on third reading, coming up in regular order, with amendments pending and with the right to amend, was reported by the Clerk.

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §33-13D-1, §33-13D-2 and §33-13D-3, all to read as follows:

CHAPTER 33. INSURANCE.

ARTICLE 13D. UNCLAIMED LIFE INSURANCE BENEFITS ACT.

§33-13D-1. Purpose.

This Act shall require recognition of the escheat or unclaimed property statutes of the adopting state and require the complete and proper disclosure, transparency, and accountability relating to any method of payment for life insurance death benefits regulated by the state’s insurance department.

§33-13D-2. Definitions.

(a) Definitions. — For purposes of this section:

(1) The term ‘contract’ shall not include an annuity used to fund an employment-based retirement plan or program where (1) the insurer does not perform the record keeping services or (2) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(2) ‘Death master file’ means the United States Social Security Administration’s death master file or any other database or service that is at least as comprehensive as the United States Social Security Administration’s death master file for determining that a person has reportedly died.

(3) ‘Death master file match’ means a search of the death master file that results in a match of the a social security number or the name and date of birth of an insured, annuity owner, or retained asset account holder.

(4) 'Knowledge of death' shall mean (a) receipt of an original or valid copy of a certified death certificate or (b) a death master file match validated by the insurer in accordance with Section 2 of this article.

(5) 'Policy' means any policy or certificate of life insurance that provides a death benefit. The term 'policy' shall not include any policy or certificate of life insurance that provides a death benefit under an employee benefit plan subject to The Employee Retirement Income Security Act of 1974 [29 USC 1002], as periodically amended, or under any Federal employee benefit program, or any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement, or any policy or certificate of credit life or accidental death insurance, or (iv) any policy issued to a group master policyholder for which the insurer does not provide Record Keeping services.

(6) 'Record keeping services' means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining and administering in its own or its agents' systems information about each individual insured under an Insured's group insurance contract (or a line of coverage thereunder), at least the following information: Social Security number or name and date of birth, beneficiary designation information, coverage eligibility, benefit amount, and premium payment status.

(7) 'Retained asset account' means any mechanism whereby the settlement of proceeds payable under a policy or contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving contract benefits other than death benefits.

§33-13D-3. Insurer Conduct.

(a) An insurer shall perform a comparison of its insureds' in-force policies, contracts, and retained asset accounts against a death master

file, on at least a semi-annual basis, by using the full death master file once and thereafter using the death master file update files for future comparisons to identify potential matches of its insureds. For those potential matches identified as a result of a death master file match, the insurer shall, within ninety days of a death master file match:

(1) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the insured or retained asset account holder against other available records and information;

(2) Determine whether benefits are due in accordance with the applicable policy or contract; and if benefits are due in accordance with the applicable policy or contract:

(A) Use good faith efforts, which shall be documented by the insurer, to locate the beneficiary or beneficiaries; and

(B) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim including the need to provide an official death certificate, if applicable under the policy, contract.

(b) With respect to group life insurance, insurers are required to confirm the possible death of an insured when the insurers maintain at least the following information of those covered under a policy or certificate: Social Security number or name and date of birth, beneficiary designation information, coverage eligibility, benefit amount, and premium payment status.

(c) Every insurer shall implement procedures to account for: common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names; compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names; transposition of the 'month' and 'date' portions of the date of birth; and incomplete social security number.

(d) To the extent permitted by law, the insurer may disclose minimum necessary personal information about a person or beneficiary who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(e) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a death master file search or verification of death master File match conducted pursuant to this section.

(f) The benefits from a policy, contract or a retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners and in the event said beneficiaries or owners cannot be found, shall escheat to the state as unclaimed property pursuant to article eight, chapter thirty-six of this Code. Interest payable under article thirteen, chapter thirty-three shall not be payable as unclaimed property under article eight, chapter thirty-six.

(e) An insurer shall notify the Treasurer upon the expiration of the statutory time period for escheat that:

(1) A policy or contract beneficiary or retained asset account holder has not submitted a claim with the insurer; and

(2) The insurer has complied with subsection (a) of this Section and has been unable, after good faith efforts documented by the insurer, to contact the retained asset account holder, beneficiary or beneficiaries.

(f) Upon such notice, an insurer shall immediately submit the unclaimed policy or contract benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the Treasurer.

(g) Failure to meet any requirement of this section with such frequency as to constitute a general business practice is a violation of

article eleven, chapter thirty-three. Nothing herein shall be construed to create or imply a private cause of action for a violation of this section.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 324**), and there were—yeas 39, nays 54, absent and not voting 7, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Atkinson, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Ihle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Summers, Trecost and P. White.

Absent and Not Voting: Deem, Ferro, Flanigan, Guthrie, Hornbuckle, J. Nelson and Perry.

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

Delegate Sponaugle then moved to amend the bill on page five, section two, line forty-six, following the period, by inserting the following language:

“Further, notwithstanding any provision of the code to the contrary, the insurer’s obligation to account for and pay those proceeds to the Uniform Unclaimed Property Act, is tied to the death of the insured or the insured’s attainment of the limiting age, maturing three years thereafter, consistent with section two, article eight, chapter thirty-six of the code.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 325**), and there were—yeas 33, nays 60, absent and not voting 7, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Deem, Ferro, Flanigan, Guthrie, Hornbuckle, J. Nelson and Perry.

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

There being no further amendments, the bill was ordered to engrossment and third reading.

The bill was then read a third time.

Delegates Faircloth, Kurcaba and Byrd requested to be excused from voting on questions regarding H. B. 4739 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 326**), and there were—yeas 61, nays 33, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Fleischauer, Fluharty, Hicks, Ihle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Summers, Trecost and P. White.

Absent and Not Voting: Deem, Ferro, Guthrie, Hornbuckle, J. Nelson and Perry.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4739) passed.

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

H. B. 4739 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed Life Insurance Benefits Act; providing definitions; regulating insurer conduct; requiring insurers to perform an annual comparison of its insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File; requiring the Insurance Commissioner to promulgate rules requiring a comparison against a Death Master File to be completed on policies issued prior to 2000 if the Commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective; providing that the annual comparison of insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File shall not apply to those accounts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of payment within eighteen months immediately preceding the Death Master File comparison; requiring reasonable steps to be taken to locate and contact beneficiaries or other authorized representatives regarding the insurer's claims process; and authorizing the Insurance Commissioner to promulgate rules that may be reasonably necessary to implement the Unclaimed Life Insurance Benefits Act."

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

Second Reading

Com. Sub. for S. B. 421, Terminating behavioral health severance and business privilege tax; on second reading, coming up in regular order, was read a second time.

On motion of Delegate E. Nelson, the bill was amended on page one, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX.

§11-13A-3. Imposition of tax ~~or~~ on privilege of severing coal, limestone or sandstone, or furnishing certain health care services, effective dates therefor; reduction of severance rate for coal mined by underground methods based on seam thickness.

(a) *Imposition of tax.* — Upon every person exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of furnishing certain health care services, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.

(b) *Rate and measure of tax.* — ~~The~~ Subject to the provisions of subsection (g) of this section, the tax imposed in subsection (a) of this section shall be five percent of the gross value of the natural resource produced or the health care service provided, as shown by the gross income derived from the sale or furnishing thereof by the producer or the provider of the health care service, except as otherwise provided in this article. In the case of coal, this five percent rate of tax includes the thirtyfive one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in section six of this article.

(c) *'Certain health care services' defined.* — For purposes of this section, the term 'certain health care services' means, and is limited to, behavioral health services.

(d) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all persons severing or processing, or both severing and processing, in this state natural resources enumerated in subsection (a) of this section and to all persons providing certain health care services in this state as enumerated in subsection (c) of this section and shall be in addition to all other taxes imposed by law.

(e) *Effective date.* — This section, as amended in 1993, shall apply to gross proceeds derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds, shall be fully and completely preserved.

(f) *Reduction of severance tax rate.* — For tax years beginning after the effective date of this subsection, any person exercising the privilege of engaging within this state in the business of severing coal for the purposes provided in subsection (a) of this section shall be allowed a reduced rate of tax on coal mined by underground methods in accordance with the following:

(†) (1) For coal mined by underground methods from seams with an average thickness of thirty seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be two percent of the gross value of the coal produced. For coal mined by underground methods from seams with an average thickness of less than thirty-seven inches, the tax imposed in subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross value is determined from the sale of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent additional severance tax imposed by the state for the benefit of counties and municipalities as provided in section six of this article.

(ii) (2) This reduced rate of tax applies to any new underground mine producing coal after the effective date of this subsection, from seams of less than forty-five inches in average thickness or any existing mine that has not produced coal from seams forty-five inches or less in thickness in the one hundred eighty days immediately preceding the effective date of this subsection.

(iii) (3) The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer.

(g)(1) Termination, and expiration of the behavioral health severance and business privilege tax. — The tax imposed upon providers of health care services under the provisions of this article shall expire, terminate, and cease to be imposed with respect to privileges exercised on or after July 1, 2016. Expiration of the tax as provided in this subsection shall not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.

(2) Refunds made. — The Tax Commissioner will issue a requisition on the treasury for any amount finally, administratively or judicially determined to be an overpayment of the tax terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the Treasurer shall pay the warrant out of the fund into which the amount refunded was originally paid.

ARTICLE 15. CONSUMERS SALE AND SERVICE TAX.

§11-15-9i. Exempt drugs, durable medical equipment, mobility enhancing equipment and prosthetic devices.

(a) Notwithstanding any provision of this article, article fifteen-a or article fifteen-b of this chapter, the purchase by a health care provider of drugs, durable medical equipment, mobility enhancing equipment and prosthetic devices, all as defined in section two, article

fifteen-b of this chapter, to be dispensed upon prescription and intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease are exempt from the tax imposed by this article: Provided, That the exemption provided for the purchase by a health care provider of durable medical equipment is suspended for the period beginning on and after July 1, 2016, and continuing until June 30, 2018. On and after July 1, 2018, the exemption is reestablished.

(b) Notwithstanding any provision of this article, article fifteen-a or article fifteen-b of this chapter, the purchase of durable medical equipment, as defined in section two, article fifteen-b of this chapter, to be dispensed upon prescription by a health care provider and intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease is exempt from the tax imposed by this article: Provided, That the durable medical equipment is purchased by an individual for exclusive use by the purchaser or another individual and used predominantly by the recipient individual in his or her home environment.

(1) Effective Dates. — The provisions of this subsection shall apply to purchases made on and after July 1, 2016.

(2) Per se exemption. — The exemption set forth by this subsection shall be given without the necessity of an exemption certificate, direct pay permit or refund or credit request.

(c) Definitions. — The following definitions shall apply:

(1) For purposes of this section, ‘used predominantly by the recipient individual in his or her home environment’, with reference to durable medical equipment, means that the equipment is sold to an individual for use by the individual purchaser or by another individual at home, regardless of where the individual resides. For purposes of this definition, the term ‘home’ means and includes facilities such as nursing homes, assisted care centers and school dormitories, of which a user or purchaser is a resident. A purchase of such equipment shall

not be disqualified from the exemption because the equipment is incidentally used on the streets, in commercial establishments, in public places and in locations other than the home, so long as use in the home is the predominant use. For purposes of this definition, the term 'individual' means and is limited to a single, separate human being and specifically excludes any health care provider, or provider of nursing services, personal care services, behavioral care services, residential care or assisted living care, or any entity or organization other than a human being.

(2) When the equipment is sold to a facility such as a hospital, nursing home, medical clinic, dental office, chiropractor or optician office, then this shall not constitute a use of the equipment by the recipient individual in his or her home environment. The fact that a nursing home may use the equipment only for its residents does not make the equipment exempt for home use: *Provided*, That nothing in this section shall be interpreted to void or abrogate lawful assertion and application of the purchases for resale exemption as it may apply to any purchaser of durable medical equipment.

~~(b)~~ (3) For purposes of this ~~exemption~~ section, 'health care provider' means any person licensed to prescribe drugs, durable medical equipment, mobility enhancing equipment and prosthetic devices intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease. For purposes of this section, the term 'health care provider' includes any hospital, medical clinic, nursing home or provider of inpatient hospital services and any provider of outpatient hospital services, physician services, nursing services, ambulance services, surgical services or veterinary services: *Provided*, That the amendment to this subsection enacted during the 2009 regular legislative session shall be effective on or after July 1, 2009.

~~(c)~~ (4) The term 'durable medical goods', as used in this article, means 'durable medical equipment' as defined in section two, article fifteen-b of this chapter.

(5) For purposes of this section, the term ‘nursing home or facility’ means any institution, residence or place, or any part or unit thereof, however named, in this state which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of providing accommodations and care, for a period of more than twenty-four hours, for four or more persons who are ill or otherwise incapacitated and in need of extensive, ongoing nursing care due to physical or mental impairment or which provides services for the rehabilitation of persons who are convalescing from illness or incapacitation: *Provided*, That the care or treatment in a household, whether for compensation or not, of any person related by blood or marriage, within the degree of consanguinity of second cousin to the head of the household, or his or her spouse, may not be deemed to constitute a nursing home within the meaning of this article.

(6) For purposes of this section, the term ‘assisted care center’ means any living facility, residence or place of accommodation, however named, available for four or more residents, in this state which is advertised, offered, maintained or operated by the ownership or management, whether for a consideration or not, for the express or implied purpose of having personal assistance or supervision, or both, provided to any residents therein who are dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent nursing care: *Provided*, That the care or treatment in a household, whether for compensation or not, of any person related by blood or marriage, within the degree of consanguinity of second cousin to the head of the household, or his or her spouse, may not be deemed to constitute an assisted living residence within the meaning of this article.

(7) For purposes of this section, the term ‘school dormitory’ means housing or a unit of housing provided primarily for students as a temporary or permanent dwelling place or abode and owned, operated or controlled by an institution of higher education, and shall be synonymous with the term ‘residence hall’.”

The bill was then ordered to third reading.

Com. Sub. for H. B. 4035, Permitting pharmacists to furnish naloxone hydrochloride; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4046, Relating to the promulgation of rules by the Department of Administration; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4168, Creating a special motor vehicle collector license plate; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4196, Relating to abandoned antique vehicles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4239, Relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4301, Relating to a framework for initiating comprehensive transformation of school leadership; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4308, Barring persons who are convicted of certain criminal offenses from acquiring property from their victims;

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

H. B. 4345, Repealing the West Virginia Permitting and Licensing Information Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4364, Internet Privacy Protection Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4486, Terminating the Behavioral Health Severance and Business Privilege Tax; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for H. B. 4537, Relating to the regulation of chronic pain clinics; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4586, Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4616, Permitting county commissions the option of paying the salaries of county officials and their employees on a bi-weekly basis; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4668, Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4724, Relating to adding a requirement for the likelihood of imminent lawless action to the prerequisites for the crime of intimidation and retaliation; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4728, Relating to schedule three controlled substances; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4736, Relating to the pawn of gift cards; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4737, Relating to increased penalties for manufacturing or transportation of a controlled substance in the presence of a minor; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4738, Relating to the offense of driving in an impaired state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4740, Permitting that current members of the National Guard or Reserves may be excused from jury duty; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

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

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

S. B. 271, Conforming definition of attest services to Uniform Accountancy Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 27, Permitting county commissions hire outside attorneys for collection of taxes through courts,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 102, Conforming to federal Law-Enforcement Officers Safety Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 265, Allowing library volunteers necessary access to user records,

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

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

Your Committee on Education has had under consideration:

S. B. 459, Requiring county board of education to pay tuition to Mountaineer Challenge Academy,

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

In accordance with the former direction of the Speaker, the bill (S. B. 459) was referred to the Committee on Finance.

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

Your Committee on Education has had under consideration:

S. B. 483, Marshall County LSIC waiver,

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

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

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

Com. Sub. for S. B. 404, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 404) was referred to the Committee on Finance.

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

Select Committee Reports

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

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

S. B. 627, Permitting physician to decline prescribing controlled substance,

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

In accordance with the former direction of the Speaker, the bill (S. B. 627) was referred to the Committee on the Judiciary.

Remarks by Members

Delegate Pushkin asked and obtained unanimous consent that the remarks of Delegate Ihle regarding H. B. 4578 be printed in the Appendix to the Journal.

Delegate Eldridge asked and obtained unanimous consent that the remarks of Delegate Flanigan regarding Com. Sub. for H. B. 4576 be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Marcum announced that he was absent when the vote was on Roll No. 285, and that had he been present, he would have voted “Yea” thereon.

Delegate Cadle informed the Clerk that his vote did not register on Roll No. 303, and noted that he intended to vote “Nay”.

Delegate E. Nelson noted to the Clerk that he was absent when the vote was taken on Roll No. 256 and had he been present he would have voted “Yea” thereon.

Delegate Duke noted to the Clerk that he was absent when the votes were taken on Roll Nos. 276, 277 and 278, and that had he been present, he would have voted “Yea” thereon.

Delegate Foster announced that he was absent when the vote was on Roll No. 288, and that had he been present, he would have voted “Yea” thereon.

Delegate R. Smith announced that he was absent when the vote was taken on Roll No. 285, and that had he been present, he would have voted “Yea” thereon.

Delegate Blackwell announced that he was absent when the vote was on Roll No. 282, and that had he been present, he would have voted “Yea” thereon.

Delegate Campbell announced that she was absent when the vote was on Roll Nos. 288, and that had she been present, she would have voted “Yea” thereon.

Delegate Fluharty noted that he was absent when the vote was taken on Roll No. 289, and that had he been present, he would have voted “Yea” thereon.

Delegate Byrd noted to the Clerk that he was absent when the votes were taken on Roll No. 206, and had he been present, he would have

voted “Yea” thereon; Roll Nos. 209 through 219 - “Yea”; Roll Nos. 223 through 229 - “Yea”; Roll Nos. 231 through 234 - “Yea”; Roll No. 236 - “Yea”; Roll No. 237 - “Nay”; Roll Nos. 238 through 243 - “Yea”; Roll No. 244 - “Nay”; Roll Nos. 245 through 250 “Yea”; and Roll No. 289 - “Yea”.

Delegate Guthrie noted to the Clerk that she was absent when the vote was taken on Roll Nos. 289 and 290 and had she been present she would have voted “Yea” thereon.

Delegate Morgan noted to the Clerk that he was absent when the votes were taken on H. B. 4428 and Com. Sub. for H. B. 4314 and had he been present he would have voted “Yea” thereon.

Delegate Kelly noted to the Clerk that he was absent when the votes were taken on Roll Nos. 298 through 301 and had he been present he would have voted “Yea” thereon.

Delegate J. Nelson noted to the Clerk that he was absent when the votes were taken on Com. Sub. for H. B. 4673 and H. B. 4726 and had he been present he would have voted “Yea” thereon.

Delegate A. Evans announced that he was absent when the votes were taken on Roll Nos. 289 and 290 and had he been present he would have voted “Yea” thereon.

Delegate R. Smith noted to the Clerk that he was absent when the vote was taken on Com. Sub. for H. B. 4625 and had he been present he would have voted “Yea” thereon.

Delegate McCuskey noted to the Clerk that he was absent when the vote was taken on Roll No. 273 and had he been present he would have voted “Yea” thereon.

Delegate Householder noted to the Clerk that he was absent when the vote was taken on Roll No. 314 and had he been present he would have voted “Nay” thereon.

Delegate Longstreth noted to the Clerk that she was absent when the vote was taken on Com. Sub. for H. B. 4279 and had she been present she would have voted “Yea” thereon.

Delegate Rowe noted to the Clerk that he was absent when the vote was taken on Roll No. 304 and had he been present she would have voted “Yea” thereon.

Delegate Fast asked and obtained unanimous consent to be removed as a cosponsor of H. B. 4438.

Delegate Eldridge asked and obtained unanimous consent to be added as a cosponsor of H. B. 4616.

At 7:48 p.m., the House of Delegates adjourned until 9:00 a.m., Wednesday, March 2, 2016.

WEDNESDAY, MARCH 2, 2016

FIFTIETH DAY

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, March 1, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 4438, on Unfinished Business, Special Calendar, to the House Calendar; and H. B. 4736 and H. B. 4737, on Third reading, Special Calendar, to the House Calendar.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4366, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

A message from the Senate, by

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

Com. Sub. for S. B. 363 — “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; defining “autocycle”; 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; deleting obsolete language regarding the motorcycle safety and education committee; and making technical corrections”; which was referred to the Committee on Roads and Transportation then the Judiciary.

A message from the Senate, by

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

S. B. 398 — “A Bill to amend and reenact §31B-10-1006 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-9-53a of said code, all relating to notices of revocation of certificate of authority to conduct business”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 484 — “A Bill to amend and reenact §15-1F-8 of the Code of West Virginia, 1931, as amended, relating to the reemployment rights of military personnel; extending reemployment rights protection to members of the organized militia in the active service of another state; and clarifying that the Uniformed Services Employment and Reemployment Rights Act of 1994 is considered applicable federal law”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 494 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4 and §17-29-5, all relating to creating the Legislative Oversight Commission on Department of Transportation Accountability; setting forth findings, purpose and intent; defining terms; designating makeup and compensation of commission; authorizing meetings of the commission; stating powers and duties of commission; providing a limited subpoena power to the commission; and requiring certain legislative reports”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 545 — “A Bill to amend and reenact §16-32-2 and §16-32-11 of the Code of West Virginia, 1931, as amended, all relating to asbestos abatement on oil and gas pipelines; defining terms; requiring requests for waivers and other matters be made to the Commissioner of the Bureau for Public Health; exempting the removal, repair and maintenance of intact oil and gas pipeline asphaltic wrap which contains asbestos fibers encapsulated or coated by bituminous or resinous compounds from asbestos abatement requirements; and providing specific requirements for that exemption to apply”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 567 — “A Bill to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to prohibiting

damage to property of railroads, public utilities and certain production storage and distribution facilities; adding electrical storage facilities and timber operations to the protected entities; prohibiting destruction and creating criminal offense of knowingly and willfully damaging property resulting in impairment to the normal, safe operation of safety-related equipment; providing criminal penalties; and clarifying persons convicted of offenses are subject to restitution”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S.B. 614 — “A Bill to amend and reenact §46A-1-105 of the Code of West Virginia, 1931, as amended; and to amend and reenact §46A-2-115 and §46A-2-121 of said code, all relating to the Consumer Credit and Protection Act; excluding obligation to make required payments to property owners’ or homeowners’ association from provisions of the Consumer Credit and Protection Act; clarifying conduct for unconscionable inducement; and providing limits on charges a secured lender may recover from a consumer borrower upon default”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 628 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-10b; and to amend said code by adding thereto a new section, designated §30-14-12d, all relating to palliative or emergent treatment for terminally ill or critically injured incapacitated patients whose medical directives would otherwise be made under the authority of the Secretary of the Department of Health and Human Resources; defining certain terms; providing that a treating physician with

concurrence of another treating physician may direct palliative or emergent medical care plan or treatment for terminally ill or critically injured incapacitated patients, including when not to resuscitate, when Department of Health and Human Resources delays in providing a directive for medical treatment; and providing that in order to direct palliative or emergent treatment plan, two treating physicians must concur that Department of Health and Human Resources delay has resulted in the patient having to endure unnecessary pain and suffering and that any remedial medical intervention likely would not lead to any meaningful recovery”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 641 — “A Bill to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and reenact §29-22A-7, §29-22A-8, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said code; and to amend and reenact §29-22C-7, §29-22C-8, §29-22C-27 and §29-22C-27a of said code, all relating to horse and dog racing and lottery; transferring certain revenues derived from racetrack video lottery and racetrack table games from special fund established for greyhound racetrack licensees to State Excess Lottery Revenue Fund; defunding West Virginia Greyhound Breeding Development Fund and Licensed Racetrack Modernization Fund and transferring money so dedicated to State Excess Lottery Revenue Fund for appropriation by the Legislature; amending rules related to recall elections for video lottery and racetrack table games; eliminating requirement that video lottery licensees at dog tracks must hold a racing license to renew video lottery license or racetrack table games license; and eliminating requirement that video lottery licensees at dog tracks must hold a

racing license to conduct simulcast racing”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 648 — “A Bill to amend and reenact §17C-3-7 of the Code of West Virginia, 1931, as amended, relating to allowing local authorities to permit flashing traffic signals during low traffic times”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 656 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-15, relating to creating the Upper Kanawha Valley Resiliency and Revitalization Program for a period of five years; finding that there are challenges facing the Upper Kanawha Valley due to the decision to relocate West Virginia University Institute of Technology from Montgomery, West Virginia, to Beckley, West Virginia; establishing revitalization council to organize and prioritize state resources and technical assistance for the Upper Kanawha Valley; directing revitalization council to develop strategies to stimulate economic activity in and around the municipalities in Upper Kanawha Valley in coordination with certain contributing partners to the extent possible; directing revitalization council to annually report to the Governor and the Legislature; directing Development Office and revitalization council to facilitate economic development incentives for the Upper Kanawha Valley; and authorizing Development Office or other state body to provide state property and equipment to businesses investing in the Upper Kanawha Valley at a reduced cost”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 658 — “A Bill to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing licensed professionals to donate time to the care of indigent and needy in a clinical setting; and allowing for some of donated time to be counted against continuing education required hours”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 691 — “A Bill to amend and reenact §22-5-20 of the Code of West Virginia, 1931, as amended, relating to modifying certain air pollution standards; changing certain mandatory requirements to permissive ones; changing a meter based standard to a mass based standard; and providing that the standards of performance for existing coal-fired electric generating units does not preclude coal-fired generating units from co-firing with other fuels”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of a joint resolution, which was read by its title and referred as follows:

Com. Sub. for S. J. R. 1 — “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof,

by adding thereto a new section, designated section one-d, relating to authorizing the Legislature to, by general law, allocate a portion of ad valorem property taxes paid by owners of certain new manufacturing facilities and large capital additions to existing manufacturing facilities located in counties in which county commissions elect to fund infrastructure capital improvements, in whole or in part, using property taxes; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment”; which was referred to the Committee on Finance then the Judiciary.

Petitions

Delegate Kelly presented a petition signed by residents of the state requesting the Governor and Legislature increase the amount of state funds allocated to PEIA; which was referred to the Committee on Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 421, Terminating behavioral health severance and business privilege tax; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 327**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: D. Evans and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 421) passed.

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

Com. Sub. for S. B. 421 — “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-15-9i of said code, all relating to the termination of behavioral health severance and business privilege tax; specifying effective date of the termination; establishing method of payment of outstanding refund claims; generating replacement revenue stream by suspending exemption of certain purchases of durable medical equipment from consumer sales and service tax for certain period; continuing the exemption for specified purchases of durable medical equipment; specifying effective dates; providing method to claim the exemption; and providing definitions and conditions for exemption.”

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

Com. Sub. for H. B. 4035, Permitting pharmacists to furnish naloxone hydrochloride; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 328**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Foster and R. Smith.

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4035) passed.

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

Com. Sub. for H. B. 4046, Relating to the promulgation of rules by the Department of Administration; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast, Moye and Perry.

Absent and Not Voting: Storch and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4046) passed.

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

Com. Sub. for H. B. 4168, Creating a special motor vehicle collector license plate; on third reading, coming up in regular order, was read a third time.

Delegates Shaffer, Walters and Moye requested to be excused from voting on the passage of Com. Sub. for H. B. 4168 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4168) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Bates and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4168) takes effect July 1, 2016.

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

Com. Sub. for H. B. 4196, Relating to abandoned antique vehicles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4196) passed.

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

Com. Sub. for H. B. 4239, Relating to construction of a modern highway from Pikeville, Kentucky to Beckley, West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 333**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lynch.

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4239) passed.

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

H. B. 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 334**), and there were—yeas 78, nays 20, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Fluharty, Guthrie, Hicks, Hornbuckle, Longstreth, Manchin, Marcum, Miley, Moore, Perry, Reynolds, Rodighiero, Skinner, Sponaugle, Statler, Storch, Trecost and Weld.

Absent and Not Voting: Boggs and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4246) passed.

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

On this question, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 81, nays 17, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Fluharty, Guthrie, Hicks, Longstreth, Manchin, Marcum, Miley, Moore, Perry, Reynolds, Rodighiero, Skinner, Sponaugle, Storch and Trecost.

Absent and Not Voting: Boggs and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4246) takes effect from its passage.

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

Com. Sub. for H. B. 4301, Relating to a framework for initiating comprehensive transformation of school leadership; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Faircloth, Folk and McGeehan.

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4301) passed.

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

Com. Sub. for H. B. 4308, 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.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Skinner and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4308) passed.

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

H. B. 4345, Repealing the West Virginia Permitting and Licensing Information Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4345) passed.

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

H. B. 4364, Internet Privacy Protection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4364) passed.

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

Com. Sub. for H. B. 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lynch and Perdue.

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4435) passed.

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

Com. Sub. for H. B. 4537, Relating to the regulation of chronic pain clinics; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ihle, McGeehan and Shaffer.

Absent and Not Voting: Sponaule and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4537) passed.

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

Com. Sub. for H. B. 4586, Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4586) passed.

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

Com. Sub. for H. B. 4608, Requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

H. B. 4616, Permitting county commissions the option of paying the salaries of county officials and their employees on a bi-weekly basis; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lynch and Marcum.

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4616) passed.

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

Com. Sub. for H. B. 4668, Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4668) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4668) takes effect July 1, 2016.

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

H. B. 4724, Relating to adding a requirement for the likelihood of imminent lawless action to the prerequisites for the crime of intimidation and retaliation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 346**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4724) passed.

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

H. B. 4728, Relating to schedule three controlled substances; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4728) passed.

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

H. B. 4738, Relating to the offense of driving in an impaired state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4738) passed.

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

H. B. 4740, Permitting that current members of the National Guard or Reserves may be excused from jury duty; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 4740) passed.

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

Second Reading

Com. Sub. for S. B. 594, Requiring State Auditor consider for payment claim submitted by electronically generated invoice; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 4486, Terminating the Behavioral Health Severance and Business Privilege Tax; on second reading, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

First Reading

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

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses,

S. B. 27, Permitting county commissions hire outside attorneys for collection of taxes through courts,

Com. Sub. for S. B. 102, Conforming to federal Law-Enforcement Officers Safety Act,

Com. Sub. for S. B. 254, Not allowing county park commissions to prohibit firearms in facilities,

Com. Sub. for S. B. 265, Allowing library volunteers necessary access to user records,

S. B. 271, Conforming definition of attest services to Uniform Accountancy Act,

Com. Sub. for S. B. 274, Relating to increasing civil jurisdictional amount in magistrate courts,

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory,

S. B. 352, Dedicating corporation net income tax proceeds to railways,

S. B. 379, Relating to candidate filing fees,

S. B. 476, Relating to driving restrictions in school zones,

S. B. 483, Marshall County LSIC waiver,

And,

Com. Sub. for S. B. 582, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Westfall.

Miscellaneous Business

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Manchin regarding the heroic actions of the Marion County Rescue Squad be printed in the Appendix to the Journal.

Delegate Sponaugle noted to the Clerk that he was absent when the vote was taken on Roll No. 341, and that had he been present, he would have voted "Yea" thereon.

Delegate D. Evans noted to the Clerk that he was absent when the votes were taken on Com. Sub. for S. B. 421, and that had he been present, he would have voted "Yea" thereon.

At 11:41 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 4163, Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

On motions of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

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

“ARTICLE 13. TAXATION AND FINANCE.**§8-13-24. Notice of delinquency.**

Plenary power and authority is hereby conferred upon all municipalities to adopt an ordinance providing for the publication of delinquent business and occupation taxes, subject to the requirements and limitations set forth herein. The ordinance shall set forth the time, place and manner in which the publication shall occur and shall identify the official or officials responsible for conducting and overseeing the publication. Any such ordinance shall provide for notice of the delinquency to the taxpayer at least thirty days prior to publication. Said notice may be by mail to each delinquent taxpayer or may be by general notice of the forthcoming publication by publishing a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the municipality. No delinquency shall be published by the municipality unless the delinquency has lasted for at least for at least four consecutive quarters.

§8-13-25. Delinquent list preparation.

(a) The official designated to conduct publication of delinquent business and occupation taxes provided for by section twenty-four of this article shall prepare the delinquent list in a manner set forth in the ordinance, so long as it is consistent with the requirements and limitations set forth herein. The ordinance shall require the designated code official adopt policies and procedures designed to verify each delinquency prior to publication.

(b) The delinquent list may include the name of the delinquent taxpayer and the year(s) in which the delinquency arises.

(c) For each delinquent list published by the municipality, and prior to such publication, the official designated in the ordinance to oversee or conduct the publication shall take an oath, to be included in

or attached to the delinquent list, certified by the city clerk or some other person duly authorized to administer oaths, in form and effect as follows:

‘I, _____ (municipal official title) of _____, do swear, to the best of my knowledge and belief, that the foregoing list of delinquent business and occupation taxes to be published on _____, is complete and accurate, and, as of the date of this oath, that I have not received payment from any of the entities listed for the delinquent amounts included in the list.’

§8-13-26. Publication and posting of delinquent tax list; costs.

(a) A copy of a delinquent list may be posted at the front door of city hall or other municipal buildings used to conduct municipal business, and may be published as a Class I-0 legal advertisement in the newspaper or other media in compliance with the provisions of article three, chapter fifty-nine of this code, on the municipality’s website or in such other reasonable manner as determined by the municipality to provide notice of the delinquency without incurring unnecessary costs related to the publication.

(b) To cover the costs of preparing, publishing and posting a delinquent list, a reasonable charge may be added to the amount owed by a taxpayer included in any such list, in addition to the tax, interest and penalty already owed by the taxpayer.

§8-13-27. Notice of delinquent lists to city council and retention of list by city.

A copy of each published delinquent list shall be provided to the city council of the municipality not later than the first regular meeting of the city council after the publication. A copy of the delinquent list shall be retained by the official designated in the ordinance for a period of not less than three years.”

And,

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

Com. Sub. for H. B. 4163 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto four new sections, designated §8-13-24, §8-13-25, §8-13-26 and §8-13-27, all relating to providing municipalities plenary power and authority to adopt an ordinance providing for the publication of delinquent business and occupation taxes; providing notice requirements; requiring policies and procedures regarding the preparation, publication and posting of a delinquent business and occupation list; and allowing for a reasonable charge to be added to the amount owed by a delinquent taxpayer to cover the costs of preparing, publishing and posting a delinquent list.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 83, nays 2, absent and not voting 15, with the nays and absent and not voting being as follows:

Nays: Arvon and Azinger.

Absent and Not Voting: Border, Cadle, Deem, Eldridge, Flanigan, Hanshaw, Hill, Longstreth, Marcum, Miller, J. Nelson, Reynolds, Romine, Walters and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4163) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 25 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§3-11A-1, §3-11A-2, §3-11A-3, §3-11A-4 and §3-11A-5, all relating to providing procedure for West Virginia to select delegates to an Article V convention for proposing amendments to Constitution of the United States of America; defining terms; directing Legislature to establish committee of correspondence for Article V convention; authorizing participation by delegates in Article V convention only when each state has equal vote; setting forth delegate duties and responsibilities; setting forth oath for candidate for delegate or alternate; designating delegates and alternates as public officials and subject to West Virginia Governmental Ethics Act; providing for immediate recall of delegate casting unauthorized vote and replacement with alternate; directing Legislature to certify certain information to Article V convention; making violation of delegate's oath a felony; and providing criminal penalties for violation of a delegate's oath"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 104 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to declaring Forensic DNA Analysis Laboratory of the Marshall University Forensic Science Center to be engaged in administration of criminal justice as that term is defined in 28 C. F. R. 20.3(b); requiring Marshall University Forensic Science Center and the West Virginia State Police to confer as to available grants and similar possible funding sources and applications therefor; affording West Virginia State Police primacy of decision making over Marshall University Forensic Science Center as to which entity may apply for certain grants; and directing West Virginia State Police and Marshall University Forensic Science Center to execute an agreement to ensure compliance with the section provisions"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 337 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-28-1, §11-28-2 and §11-28-3, all relating to creating five-year tax credit for new businesses locating on post-mine sites; defining terms; setting eligibility requirements for credit; establishing amount of tax credit allowed; and establishing how credit may be applied”; which was referred to the Committee on Energy then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 454 — “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5, §16-5Y-6, §16-5Y-7, §16-5Y-8, §16-5Y-9, §16-5Y-10, §16-5Y-11, §16-5Y-12 and §16-5Y-13; and to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A-9-8 of said code, all relating to licensing and regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; setting out purpose; providing definitions; creating licenses for opioid treatment programs; creating categories of licenses; setting out licensing requirements; providing for registration of office-based medication assisted programs; providing for application, fees and inspections of office-based medication assisted programs; setting operational requirements for medication-assisted treatment programs; providing for a program sponsor and medical director; setting forth staffing requirements; providing for regulation and oversight by Office of Health Facility Licensure and Certification; designating necessity for a medical director and prescribing minimum training and performance requirements; allowing enrollment as a Medicaid provider; providing

billing requirements; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards and patient treatment standards for any medication-assisted treatment program prescribing or dispensing medication-assisted treatment medications; requiring review of the West Virginia Controlled Substances Monitoring Program database for each patient at least quarterly; setting compliance requirements for a medication-assisted treatment program; providing for patient protocols, treatment plans and profiles; allowing liquid methadone to be prescribed and dispensed only as allowed by legislative rule; setting notification requirements of operation changes; restricting location of medication-assisted treatment programs; allowing for waivers and variances from certification or licensure standards; permitting inspection warrants; providing for an administrative review and appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules, including emergency rules; providing advertisement requirements; creating moratorium on new opioid treatment programs; establishing state authority and state oversight authority for medication assisted treatment programs; mandating data collection; granting Office of Health Facility Licensure and Certification access to the West Virginia Controlled Substances Monitoring Program database for use in certification, licensure and regulation of health facilities; requiring reporting when an opioid antagonist is dispensed by certain persons; clarifying statutory language related to seventy-two hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for the West Virginia Controlled Substances Monitoring Program database; establishing a civil penalty for failure to register for the West Virginia Controlled Substances Monitoring Program database; establishing a civil penalty for failure to access the West Virginia Controlled Substances Monitoring Program as mandated by the code; providing exceptions to penalties; clarifying language related to the Fight Substance Abuse

Fund; placing administrative authority over the Fight Substance Abuse Fund with the Bureau for Public Health; revising statutory language to use defined terms; and reorganizing existing language”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 534 — “A Bill to amend and reenact §17C-5-2, §17C-5-2b, §17C-5-4 and §17C-5-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §17C-5A-1, §17C-5A-1a and §17C-5A-3 of said code; to amend said code by adding thereto two new sections, designated §17C-5A-1b and §17C-5A-1c; and to amend said code by adding thereto a new section, designated §17C-5C-6, all relating generally to the procedures for drivers’ license suspensions and revocations for driving under the influence of alcohol, controlled substances or drugs; transferring authority for hearing matters related to suspensions or revocations of drivers’ license for operating a motor vehicle while under the influence of alcohol, controlled substances or drugs from the Office of Administrative Hearings to magistrate courts; granting authority to magistrate courts to suspend or revoke driver’s licenses in such cases; establishing mandatory revocation periods for individuals convicted of driving under the influence; authorizing alternate revocation period involving participation in motor vehicle alcohol test and lock period for certain first offenses; establishing mandatory revocation periods for individuals upon subsequent convictions for driving under the influence; requiring individuals whose driver’s licenses have been revoked upon conviction for driving under the influence to complete comprehensive safety and treatment program; making individuals who are found guilty of driving under the influence ineligible for deferral of further proceedings upon condition of participation in motor vehicle alcohol test and lock program; making individuals who refuse to submit to a secondary chemical test ineligible for deferral of further

proceedings upon condition of participation in motor vehicle alcohol test and lock program; prohibiting secondary test of blood without issuance of warrant signed by a magistrate or circuit judge; requiring that individual arrested for driving under the influence be advised orally of certain consequences for refusal to submit to secondary chemical test; requiring that individual arrested for driving under the influence be given written statement informing the individuals of legal consequences of taking or refusing to take a preliminary breath test and informing the individual of right to receive secondary blood test; requiring that officer give second oral warning fifteen minutes after first warning given and before refusal is considered final; requiring that, following an individual's refusal to take a preliminary breath test, an arresting officer execute a signed statement that the officer administered all required warnings; directing officer to submit copy of written statement to court having jurisdiction over charges filed against the individual; eliminating all statutory provisions authorizing or requiring the Commissioner of the Division of Motor Vehicles to take administrative action upon an individual's driver's license on the basis of a driving under the influence arrest; limiting administrative jurisdiction of Division of Motor Vehicles and Office of Administrative Hearings to offenses occurring on or before June 30, 2016; providing that administrative hearings relating to refusal to undergo a secondary chemical test does not apply to offenses occurring on or after July 1, 2016; eliminating requirement for an order entered by the Division of Motor Vehicles revoking a driver's license to advise of procedures for requesting administrative hearing when the offense is driving under the influence; limiting the right of individuals to challenge suspension or revocation of driver's licenses to the issue of mistaken identity; requiring the Commissioner to take corrective action if a driver's license is incorrectly suspended or revoked based on mistaken identity; providing that plea of no contest constitutes a conviction; requiring pretrial suspension of driver's licenses if individual refuses to submit to secondary chemical test; permitting pretrial suspension of driver's license by court under certain circumstances; establishing right to request and receive judicial review of suspension orders pending criminal proceedings; establishing the

scope of review for judicial review of pretrial driver's license suspension for refusal to submit to secondary chemical test; requiring the clerk of a court to transmit a copy of an order suspending or revoking a driver's license to the Division of Motor Vehicles; providing terms and length of pretrial license suspension; giving person's convicted of driving under the influence credit for pretrial suspension time against period of revocation imposed; making persons convicted of driving under the influence eligible for participation in comprehensive safety and treatment program and related reductions in length of revocation for successful competition thereof; establishing procedures and timeline for the Division of Motor Vehicles to transfer jurisdiction of driver's license suspension and revocation to the courts; and making technical corrections"; which was referred to the Committee on Roads and Transportation then the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 539 — "A Bill to amend and reenact §54-2-14a of the Code of West Virginia, 1931, as amended, relating to condemnation proceedings; setting forth conditions which must be met; providing the compensation for taking coal, oil and natural gas; clarifying that near-surface minerals are part of the surface estate unless specifically granted to the mineral estate; providing for the inadmissibility of certain evidence; providing for an owner's interest in the money paid into court; removing refund and reimbursement provisions; and conforming certain language to accepted drafting standards"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 555 — "A Bill to amend and reenact §11-14C-5 of the Code of West Virginia, 1931, as amended, relating to providing the flat tax motor fuel, other than alternative fuels, is

increased by 3 cents, unless actual average wholesale price of motor fuel rises above \$2.00 per invoiced gallon; setting minimum level for average wholesale price of motor fuel; and providing effective dates”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 563 — “A Bill to amend and reenact §16-5V-2 of the Code of West Virginia, 1931, as amended, relating to definition of “accrued benefit” as it applies to West Virginia Emergency Medical Services Retirement System; and increasing retirement benefit multiplier for members with more than twenty-five years of credited service”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 599 — “A Bill to amend and reenact §36-8-2 of the Code of West Virginia, 1931, as amended, relating generally to Uniform Unclaimed Property Act; and clarifying that presumed abandoned property in the form of amounts owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, and obligations related thereto, are guided by policies, requirements and interpretations of the Insurance Commissioner”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 601 — “A Bill to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §24-2-11, relating to exception from the jurisdiction of the Public Service Commission for materials recovery facilities or mixed waste

processing facilities”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 622 — “A Bill to amend and reenact §5-16-4 of the Code of West Virginia, 1931, as amended, relating to the composition of the Public Employees Insurance Agency Finance Board; reducing the number of members; and changing the experience requirements for members”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 625 - “A Bill to amend and reenact §16-1-9c of the Code of West Virginia, 1931, as amended, relating to limitations on public access to information regarding aboveground storage tanks; creating an exception to information in a water protection plan; and allowing disclosure of information already in public domain as a result of the action of a state or federal agency”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

Com. Sub. for S. B. 631 — “A Bill to amend and reenact §18B-1-1d of the Code of West Virginia, 1931, as amended, relating to retirement and separation incentives”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 643 — “A Bill to amend and reenact §21A-6-1a of the Code of West Virginia, 1931, as amended, relating to requiring individuals receiving unemployment compensation to apply for and accept seasonal employment”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 644 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-10-17, relating to county registration plates; allowing counties to customize county registration plates; providing fees; and requiring Commissioner of the Division of Motor Vehicles to propose rules for legislative approval regarding proper forms to be used in counties that offer customized license plates”; which was referred to the Committee on Roads and Transportation then Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 647 — “A Bill to amend and reenact §7-18-2 of the Code of West Virginia, 1931, as amended, relating to exempting certain complimentary hotel rooms from hotel occupancy tax”; which was referred to the Committee on Small Business, Entrepreneurship and Economic Development then Finance.

A message from the Senate, by

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

S. B. 657 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-30, relating to damages for medical monitoring; establishing requirements

for an order for payment of medical monitoring expenses; and providing that an increased risk of disease is not a compensable basis for damages in any civil action”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 669 — “A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to the demonstration of proficiency in civics as a condition of receiving a high school diploma or General Educational Development (GED) diplomas”; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 677 — “A Bill to amend and reenact §18B-10-1 of the Code of West Virginia, 1931, as amended, relating to tuition rates set by higher education institutional governing boards; allowing increase in tuition for undergraduate and graduate students taking more than sixteen and twelve hours, respectively, a semester; requiring the Higher Education Policy Commission and the Council for Community and Technical College Education to promulgate rules in accordance with this amendment; and allowing the fixing of different tuition and fees for summer terms, nontraditional time periods and online course delivery”; which was referred to the Committee on Education then Finance.

A message from the Senate, by

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

S. B. 678 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2E-3,

relating to ownership and use of certain conduit that provides service by a telephone public utility; requiring the telephone company to permit a customer to own and use the conduit for other purposes; and providing for rule-making authority"; which was referred to the Committee on Government Organization.

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

Committee Reports

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

Your Committee on Education has had under consideration:

S. B. 299, Creating Library Facilities Improvement Fund,

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

In accordance with the former direction of the Speaker, the bill (S. B. 299) was referred to the Committee on Finance.

Delegate Cooper, Vice Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

S. B. 516, Relating to registration for selective service,

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

In accordance with the former direction of the Speaker, the bill (S. B. 516) was referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

S. B. 29, Tolling statute of limitations in certain cases,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 435, Allowing farm winery enter alternating wine proprietorship agreements with farm owners,

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

In accordance with the former direction of the Speaker, the bill (S. B. 435) was referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration:

S. B. 507, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 303, Providing for 5-day resident fishing license,

And,

Com. Sub. for S. B. 500, Authorizing Superintendent of state police hold training classes to use West Virginia Automated Police Network,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 376, Expanding authority of Secretary of State and State Police,

And,

S. B. 437, Updating and clarifying code relating to rules governing mixed martial arts,

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

Miscellaneous Business

Delegate Cadle noted to the Clerk that he was absent when the vote was taken on Roll No. 350, and that had he been present, he would have voted "Yea" thereon.

At 5:24 p.m., the House of Delegates adjourned until 11:00 a.m.,
Thursday, March 3, 2016.

THURSDAY, MARCH 3, 2016

FIFTY-FIRST DAY

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

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

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

The Clerk proceeded to read the Journal of Wednesday, March 2, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3rd day of March, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 10), Creating Unborn Child Protection from Dismemberment Abortion Act,

And,

(S. B. 558), Maintaining solvency of Unemployment Compensation Fund.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 259, Amending Unfair Trade Practices Act,

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

Delegate Cowles asked unanimous consent that second reference of the bill to the Committee on the Judiciary be dispensed with, which consent was not given, objection being heard.

The bill (Com. Sub. for S. B. 259) was then referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 334, Identifying coyote as fur-bearing animal and woodchuck as game animal,

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

In accordance with the former direction of the Speaker, the bill (S. B. 334) was referred to the Committee on Government Organization.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

S. B. 333, Taking and registering of wildlife,

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

In accordance with the former direction of the Speaker, the bill (S. B. 333) was referred to the Committee on the Judiciary.

Delegate Hamilton, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. B. 43, Clarifying means of posting to prohibit hunting or trespassing,

And,

S. B. 336, Relating to crossbow hunting,

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

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 43 and S. B. 336) were each referred to the Committee on the Judiciary.

Delegate Miller, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

S. B. 426, Continuing Office of Coalfield Community Development,

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

In accordance with the former direction of the Speaker, the bill (S. B. 426) was referred to the Committee on Government Organization.

Conference Committee Report Availability

At 11:31 a.m., the Clerk announced availability in his office of the report of the Committee of Conference on S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 1, 2016, he approved Com. Sub. for S. B. 309, S. B. 341, S. B. 449, S. B. 450 and S. B. 451; on March 2, 2016, he approved Com. Sub. for S. B. 7, Com. Sub. for S. B. 14, Com. Sub. for S. B. 146, Com. Sub. for S. B. 150, S. B. 351, Com. Sub. for S. B. 369 and S. B. 462; and on March 3, 2016, he approved Com. Sub. for Com. Sub. for S. B. 387.

The Speaker then laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
Charleston

February 17, 2016

Veto Message

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates

Room 228M, Building 1
State Capitol Complex
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 4007

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 4007.

The general aim of this bill—establishing competitive bidding and qualification procedures for the hiring of private legal counsel by the Attorney General in cases in which the state and its agencies are plaintiffs—is commendable. I support wholeheartedly including procedures in the West Virginia Code to ensure that the state and its offices and agencies receive competent counsel at competitive rates.

My issue with the bill is the extent to which it permits, perhaps inadvertently, the Attorney General to ignore a state office or agency client’s authority, decisions, and directives in a case, in contravention of the Rules of Professional Conduct governing West Virginia lawyers. For example, the following broad language appears in the bill’s §5-3-3(b): “All special assistant attorneys general appointed shall serve at the will and pleasure of the Attorney General and shall perform such duties as the Attorney General may require of them.” See p. 2, lines 11-13. This statement disregards that there are circumstances where special assistant attorneys general are appointed for state offices and agencies, including the Governor’s Office, because the Attorney General’s Office has a conflict or has taken a contrary position in a case. In such circumstances, the special assistant attorneys general serve at the will and pleasure of their client state offices and agencies, not the Attorney General. As drafted and passed by the Legislature, §5-3-3(b) is overbroad and could occasion conflicts of interest.

Furthermore, Enrolled Committee Substitute for House Bill 4007 provides that “[t]he Attorney General, or the deputy or assistant Attorney General involved in the case, shall retain control over the course and conduct of the case.” See §5-3-3a(g)(1), p. 5, lines 76-77. The bill also states that “[t]he Attorney General, or the deputy or assistant Attorney General involved in the case, retains veto power over any decisions made by any appointed private attorneys.” *Id.* at § 5-3-3a(g)(3), p. 5, lines 80-81.

The Rules of Professional Conduct, however, make it clear that “a lawyer [whether it be the Attorney General, his assistant, or outside private counsel] shall abide by a client’s decisions concerning the objectives of representation and . . . shall consult with the client as to the means by which they are to be pursued.” See Rule 1.2(a), Rules of Professional Conduct (emphasis added). Rule 1.2(a) thus “confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer’s professional obligations.” *Id.* at Comment [1] (emphasis added).

In other words, it is the state office or agency client—not the Attorney General—“who retains control over the course and conduct of the case”, and who “retains veto power over any decision made by any appointed private attorneys”, subject, of course, to the law and applicable ethical obligations. See §5-3-3(a)(g)(1) and (3), p. 5, lines 76-81.

Enrolled Committee Substitute for House Bill 4007 is problematic because it appears to cede state office and agency decision-making authority to the Attorney General. This problem is exacerbated because West Virginia Code §5-3-3(c), which is implicated in the bill, expressly provides that the bill’s language trumps all other laws that are inconsistent with its provisions, such as the Rules of Professional Responsibility. See §5-3-3(c), p. 2, lines 14-15 (“All laws or parts of laws inconsistent with the provisions hereof are hereby amended to be in harmony with the provisions of this section.”).

Finally, the bill contains a technical issue because it is silent as to its impact on existing private counsel contracts. The bill should contain a provision explicitly stating that it does not impair those contracts. See W. Va. Const. Art. 3, §4 (prohibiting the passage of laws impairing contractual obligations).

In sum, I believe Enrolled Committee Substitute for House Bill 4007 contains overly-general language that fails to account for those scenarios where special assistant attorneys general cannot— for practical and ethical reasons—serve at the will and pleasure of the Attorney General. The bill also infringes on state office and agency client decisions and directives and is at odds with the Rules of Professional Conduct adopted by our Supreme Court of Appeals. Lastly, the bill is flawed technically because it could be read to impair existing contracts. For these reasons, I must disapprove the bill and return it. However, I welcome the Legislature to repair the issues I have addressed herein and then return the bill to my desk for signature.

Sincerely,

Earl Ray Tomblin,
Governor.

On motion of Delegate Cowles, in accordance with Section 51, Article VI of the Constitution, the House of Delegates proceeded to reconsider Enrolled Committee Substitute for House Bill 4007, in an effort to meet the objections of the Governor.

On motion of Delegate Cowles, Enr. Com. Sub. for H. B. 4007 was amended, in an effort to meet the objections of the Governor, by amending the bill on page two, section three, line thirteen, following the word “them”, by replacing the period with a colon and inserting the following proviso:

“Provided, That the appointment of a special assistant Attorney General under this section shall not be construed to alter, inhibit or expand the attorney-client relationship set forth in this article between

the Attorney General and the state in the control or conduct of a cause of action.”

On page five, section three-a, line seventy-six, by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

“(1) The Attorney General, or the deputy or assistant Attorney General involved in the case, shall retain management and supervisory authority over the private attorney” and a semicolon.

On page five, section three-a, line eighty, by striking out subdivision (3) in its entirety and renumbering the remaining subdivision.

And,

On page eight, section three-a, following line one hundred fifty, by inserting two subsections, designated subsections (p) and (q), to read as follows:

“(p) The requirements and procedures established in this section are inapplicable to and shall not impair any contingency fee legal arrangement or contract awarded prior to the effective date of this section.

(q) The appointment of a special assistant Attorney General under this section shall not be construed to alter, inhibit or expand the attorney-client relationship set forth in this article between the Attorney General and the state in the control or conduct of a cause of action.”

The question being on the passage of the bill, as amended, the Speaker propounded, “Shall the bill pass, in an effort to meet the objections of the Governor?”

On this question, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 85, nays 14, absent and not voting 1, with the yeas, nays and absent and not voting being as follows:

Yeas: Amber, Anderson, Arvon, Atkinson, Azinger, Bates, Blackwell, Blair, Boggs, Border, Butler, Byrd, Cadle, Campbell, Canterbury, Cooper, Cowles, Deem, Duke, Eldridge, Ellington, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Flanigan, Folk, Foster, Frich, Gearheart, Guthrie, Hamilton, Hamrick, Hanshaw, Hartman, Hicks, Hill, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, Manchin, McCuskey, McGeehan, Miller, Moffatt, Moye, E. Nelson, J. Nelson, O'Neal, Overington, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Romine, Rowan, Shaffer, Shott, Skinner, P. Smith, R. Smith, Sobonya, Stansbury, Statler, Storch, Summers, Trecoast, Upson, Wagner, Walters, Waxman, Weld, Westfall, P. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Caputo, Ferro, Fleischauer, Fluharty, Hornbuckle, Longstreth, Lynch, Marcum, Miley, Moore, Morgan, Perdue, Rowe and Sponaugle.

Absent and Not Voting: B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr. Com. Sub. for H. B. 4007) passed, as a result of the objections of the Governor.

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 4012, West Virginia Religious Freedom Restoration Act.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2016, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 602 — “A Bill to amend and reenact §29-12B-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-12D-1 and §29-12D-3 of said code; to amend said code by adding thereto a new section, designated §29-12D-1a; to amend and reenact §55-7B-9 and §55-7B-9c of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating to the Patient Injury Compensation Fund; transferring funds from Medical Liability Fund to Patient Injury Compensation Fund and thereafter closing Medical Liability Fund; prohibiting direct recover of legal fees from Patient Injury Compensation Fund; providing that the board may not compensate claimants who have not filed a claim with the fund by a specific date; providing an assessment on medical licenses; providing exceptions to assessment on medical licenses; prohibiting granting or renewal of medical license for failure to pay assessment; providing an assessment on trauma patients treated at designated trauma centers; providing an assessment on claims filed under the Medical Professional Liability Act; defining ‘qualifying claim’; defining ‘date’ for purposes of determining applicability of section; directing entities collecting assessments to remit payment to Board of Risk and Insurance Management; setting schedule for remittance of payments to Board of Risk and Insurance Management; providing termination of assessments upon certain deadlines being met; limiting jurisdiction of court reviewing award from board to approval of final award; clarifying authority of Board of Risk and Insurance Management make periodic payments or place claims in nonpayment status in its discretion; permitting trier of fact to consider fault of all alleged parties, including fault of persons who have settled claims with plaintiff arising out of same medical injury, in assessing percentages of fault; permitting clarifying manner in which damages are to be determined with respect to each defendant for purposes of entering

judgment when there is no pre-verdict settlement; providing for limit on liability for economic damages in causes of actions against a trauma facility to be adjusted for inflation annually beginning January 1, 2016; setting limit on inflation increase; authorizing plaintiff who suffers economic damages in excess of limit of liability to collect economic damages up to an additional \$1 million; clarifying that additional economic liability limit is not subject to inflation; providing that a claimant's attorney fees may not be paid out of the fund; providing that several liability applies in all cases under the Medical Professional Liability Act; increasing filing fee for causes of action under the Medical Professional Liability Act; and directing clerk of court to deposit a portion of the filing fee into Patient Injury Compensation Fund"; which was referred to the Committee on the Judiciary then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 686 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3pp; and to amend said code by adding thereto a new section, designated §8-12-5g, all relating to authorizing local governing authorities to hold sanctioned motor vehicle races on public roads or municipal streets or airports under their jurisdiction; requiring issuance of permit in relation to racing event; providing immunity from damages; and declaring that an authorized racing event is not a nuisance or subject to speed restrictions"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 701 — "A Bill to repeal §7-25-15, §7-25-17, §7-25-19, §7-25-21 and §7-25-22 of the Code of West Virginia, 1931, as

amended; to amend and reenact §7-25-3 and §7-25-8 of said code; and to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-6, §60-5-7 and §60-5-8 of said code, all relating generally to resort area districts; removing resort area district authority to conduct property assessments; authorizing resort area districts to hold local option elections as to whether or not the sale of alcoholic beverages may be sold within the district; and providing voting mechanisms therefor”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 702 — “A Bill to amend and reenact §44-8-1 of the Code of West Virginia, 1931, as amended, relating to providing that, in instances where real estate, or an interest therein, is devised to be sold and the proceeds thereof distributed, title to said real estate passes to those individuals entitled to receive the proceeds of sale if the personal representative of the estate does not do so within five years of the closing of an estate”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 703 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §59-1-2b, relating to requiring the Secretary of State to develop a mechanism for the deposit of the overpayment of certain fees into the Children’s Trust Fund; and requiring that the person due the refund voluntarily and affirmatively chooses to donate the amount of the overpayment”; which was referred to the Committee on Finance.

A message from the Senate, by

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

S. B. 705 — “A Bill to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating to reducing the severance tax on coal to three percent over two years; and specifying effective dates”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of a joint resolution, which was read by its title and referred to the Committee on Agriculture and Natural Resources then Finance as follows:

Com. Sub. for S. J. R. 14 — “Proposing an amendment to the Constitution of the State of West Virginia amending article III thereof, by adding thereto a new section, designated section twentythree, relating to the right to farm and ranch; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

Petitions

Delegate Bates presented a petition from over 5,000 West Virginia citizens concerned about the grave toll that tobacco use is having on our communities, our economies and our personal health and urging members of the WV House of Delegates to resist any attempt to weaken smoke-free indoor air in West Virginia’s communities or undermine the authority of our local Boards of Health to create smoke-free indoor regulations; which was referred to the Committee on Health and Human Resources.

Conference Committee Report

Delegate Lane, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 2800, Adding law-enforcement officers’ contact information and names of family members to the list of exemptions from public records requests,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the Senate to Committee Substitute for House Bill No. 2800 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That both houses recede from their respective positions as to the amendment of the Senate striking out everything following the enacting clause and inserting new language, and agree to the same as follows:

“That §29B-1-2 and §29B-1-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1. PUBLIC RECORDS.

§29B-1-2. Definitions.

As used in this article:

(1) ‘Custodian’ means the elected or appointed official charged with administering a public body.

(2) ‘Law-enforcement officer’ shall have the same definition as this term is defined in W.Va. Code §30-29-1: *Provided*, That for purposes of this article, ‘law-enforcement officer’ shall additionally include those individuals defined as ‘chief executive’ in W.Va. Code §30-29-1.

~~(2)~~ (3) ‘Person’ includes any natural person, corporation, partnership, firm or association.

~~(3)~~ (4) ‘Public body’ means every state officer, agency, department, including the executive, legislative and judicial departments, division, bureau, board and commission; every county and city governing body, school district, special district, municipal corporation, and any board, department, commission council or agency

thereof; and any other body which is created by state or local authority or which is primarily funded by the state or local authority.

~~(4)~~ (5) 'Public record' includes any writing containing information prepared or received by a public body, the content or context of which, judged either by content or context, relates to the conduct of the public's business.

~~(5)~~ (6) 'Writing' includes any books, papers, maps, photographs, cards, tapes, recordings or other documentary materials regardless of physical form or characteristics.

§29B-1-4. Exemptions.

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under the provisions of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;

(4) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications and network security records, passwords, security codes or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests or the results of those tests;

(15) Architectural or infrastructure designs, maps or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U.S.C. §222; ~~and~~

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or

operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident or to facility personnel:;

(20) Information related to applications under section four, article seven, chapter sixty-one of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided*, That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted: *Provided, however*, That information or other records exempted under this subdivision may be disclosed to a law enforcement agency or officer: (i) to determine the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes:; and

(21) Personal information of law-enforcement officers maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, ‘personal information’ means a law-enforcement officer’s social security number, health information, home address, personal address, personal telephone numbers and personal email addresses and those of his or her spouse, parents and children as well as the names of the law-enforcement officer’s spouse, parents and children.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term ‘terrorist act’ means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.”

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title as follows:

Com. Sub. for H. B. 2800 — “A Bill to amend and reenact §29B-1-2 and §29B-1-4 of the Code of West Virginia, 1931, as amended, all relating to law-enforcement officers’ personal information; defining terms; and adding personal information of law-enforcement officers and certain family members of law-enforcement officers maintained by the public body in the ordinary course of the employer-employee relationship to the list of exemptions from public records requests.”

Respectfully submitted,

Patrick Lane,
Roger Hanshaw,
Steve Shaffer,

Bob Ashley,
Robert Karnes,
Mike Woelfel,

*Conferees on the part of
the House of Delegates.*

*Conferees on the part of
Senate.*

On motion of Delegate Lane, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2800) passed.

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

Special Calendar

Third Reading

Com. Sub. for S. B. 594, Requiring State Auditor consider for payment claim submitted by electronically generated invoice; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Moffatt and B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 594) passed.

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

Com. Sub. for H. B. 4608, Requiring the State Auditor to consider for payment a claim submitted by an electronically generated invoice;

on third reading, coming up in regular order, was, on motion of Delegate Cowles, tabled.

Second Reading

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §17C-12-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 12. SPECIAL STOPS REQUIRED.

§17C-12-7. Overtaking and passing school bus; penalties; signs and warning lights upon buses; requirements for sale of buses; mounting of cameras; educational information campaign; limitation on idling.

(a) This law shall be known as Haven’s Law.

(b) The driver of a vehicle, upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching the school bus when there is in operation on the school bus flashing warning signal lights, as referred to in section eight of this article, and the driver may not proceed until the school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children including, but not limited to, any street, highway, parking lot, private road or driveway: *Provided*, That the driver of a vehicle upon a controlled access highway need not

stop upon meeting or passing a school bus which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

~~(b) (c)(1) Where the actual identity of the operator of a motor vehicle operated in violation of subsection (a) of this section is known Any driver acting in violation of subsection (a) of this section then that driver is guilty of a misdemeanor and, upon conviction for a first offense, shall be fined not less than \$150 or more than \$500, or confined not less than two days nor more than six months and shall be fined not less than \$200 nor more than \$2,500: *Provided*, That such jail term shall include actual confinement of not less than twenty-four hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense. Upon conviction of a second violation of subsection (a), the driver shall be fined \$500, or confined in jail not more than six months, or both fined and confined in jail for not more than one week nor more than one year, and shall be fined not less than \$2,500 nor more than \$5,000. Upon conviction of a third or subsequent violation of subsection (a), the driver shall be fined \$500, and confined not less than twenty-four hours in jail but not more than six months is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than five years and the court may, in its discretion, impose a fine of not less than \$5,000 nor more than \$10,000.~~

(2) In addition to the penalties prescribed in subdivision (1) of this subsection, the Commissioner of Motor Vehicles shall, upon conviction, suspend the driver's license of the person so convicted:

(1) Of a first offense under subdivision (1) of this subsection, for a period of thirty days;

(2) Of a second offense under subdivision (1) of this subsection, for a period of ninety days; or

(3) Of a third or subsequent offense under subdivision (1) of this subsection, for a period of one hundred and eighty days.

~~(c) (d)~~ In addition to the penalties prescribed in subsections (b) of this section, the Commissioner of Motor Vehicles shall, upon conviction, suspend the driver's license of the person so convicted:

~~(1) Of a first offense under subsection (b) of this section, for a period of thirty days;~~

~~(2) Of a second offense under subsection (b) of this section, for a period of ninety days; or~~

~~(3) Of a third or subsequent offense under subsection (b) of this section, for a period of one hundred and eighty days.~~

Where the actual identity of the operator of a motor vehicle operated in violation of subsection (a) of this section is unknown but the license plate number of the motor vehicle is known, it may be inferred that the operator was an owner or lessee of the motor vehicle:

(1) For a first offense under subsection (b) of this section, and shall assess fees of not less than \$200 nor more than \$2,500;

(2) For a second offense under subsection (b) of this section, and shall assess fees of not less than \$2,500 nor more than \$5,000; and

(3) For a third or subsequent offense under subsection (b) of this section, and shall assess fees of not less than \$5,000 nor more than \$10,000.

Where there is more than one registered owner or lessee, the inference created by this subsection shall apply to the first listed owner or lessee as found on the motor vehicle registration.

~~(d)~~ (e) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section and the violation causes serious bodily injury to any person other than the driver, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than ~~one~~ two years nor more than ~~three~~ ten years and

fined not less than ~~\$500~~ \$2,000 nor more than ~~\$2,000~~ \$15,000. Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section and the violation causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week nor more than one year, or fined not less than \$1,000 nor more than \$5,000, or both.

~~(e)~~ (f) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section, and the violation causes death, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than ~~one~~ three years nor more than ~~ten~~ fifteen years and fined not less than ~~\$1,000~~ \$5,000 nor more than ~~\$3,000~~ \$20,000: *Provided, That any death charged under this subsection must occur within one year of the offense.*

~~(f)~~ (g) Every bus used for the transportation of school children shall bear upon the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings on the contract school bus indicating 'school bus' shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children.

~~(g)~~ (h) Every county board of education is hereby authorized to mount a camera on any school bus for the purpose of enforcing this section or for any other lawful purpose.

~~(h)~~ (i) To the extent that state, federal or other funds are available, the State Police shall conduct an information campaign to educate

drivers concerning the provisions of this section and the importance of school bus safety.

(†) (j) The State Board of Education shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code governing the idling of school buses.”

On motion of Delegate Shott, the amendment was amended on page three, section seven, line forty-four, by striking out the entirety of the remaining text of subsection (d) and inserting in lieu thereof the following:

“Where the actual identity of the operator of a motor vehicle operated in violation of subsection (a) of this section is unknown but the license plate number of the motor vehicle is known, it may be inferred that the operator was an owner or lessee of the motor vehicle, and the Commissioner of Motor Vehicles shall:

(1) For a first offense under subsection (b) of this section, assess fees of not less than \$200 nor more than \$2,500;

(2) For a second offense under subsection (b) of this section, assess fees of not less than \$2,500 nor more than \$5,000; and

(3) For a third or subsequent offense under subsection (b) of this section, assess fees of not less than \$5,000 nor more than \$10,000.

Where there is more than one registered owner or lessee, the inference created by this subsection shall apply to the first listed owner or lessee as found on the motor vehicle registration.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 27, Permitting county commissions hire outside attorneys for collection of taxes through courts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 102, Conforming to federal Law-Enforcement Officers Safety Act; on second reading, coming up in regular order, was read a second time.

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

“That §7-4-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §30-29-12, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.

§7-4-1. Duties of prosecuting attorney; further duties upon request of Attorney General.

(a) ~~It shall be the duty of~~ The prosecuting attorney ~~to~~ shall attend to the criminal business of the state in the county in which he or she is elected and qualified, and when ~~he~~ the prosecuting attorney has information of the violation of any penal law committed within ~~such~~ the county, ~~he~~ the prosecuting attorney shall institute and prosecute all necessary and proper proceedings against the offender, and may in such case issue or cause to be issued a summons for any witness ~~he may deem~~ the prosecuting attorney considers material. Every public officer shall give ~~him~~ the prosecuting attorney information of the violation of any penal law committed within his or her county. ~~It shall also be the duty of~~ The prosecuting attorney ~~to~~ shall also attend to civil suits in ~~such~~ the county in which the state, or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such county or any county board of education is interested.

(b) (1) In furtherance of the prosecuting attorney's duty to prosecute criminal offenses committed in the county to which they have been assigned, the prosecuting attorney and assistant prosecuting attorneys under his or her supervision shall have the authority to arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure which occur in the county courthouse and other buildings where court proceedings are held in which the prosecutor or assistant prosecutor is appearing before the court in a criminal matter and in the presence of the prosecuting attorney or assistant prosecuting attorney.

(2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy sheriff, within the geographic limitations of subdivision (b)(1).

(3) Should a prosecuting attorney or assistant prosecuting attorney desire to carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U. S. C. §926B, the following criteria must be met:

(A) The prosecuting attorney's office shall have a written policy authorizing the prosecuting attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the office of the prosecuting attorney a requirement that the prosecuting attorney and assistant prosecuting attorneys must regularly qualify in the use of a firearm with standards therefore which are equal to or exceed those required of sheriff's deputies in the county in which the prosecuting attorney was elected or appointed;

(C) The office of the prosecuting attorney shall issue a photographic identification and certification card which identify the

prosecuting attorney or assistant prosecuting attorneys as law enforcement employees of the prosecuting attorney's office pursuant to the provisions of section twelve, article twenty-nine, chapter thirty of this code.

(4) A prosecuting attorney's office which institutes a policy pursuant to this subsection shall include in such policy a provision that precludes persons from participation in the concealed firearm program and persons subject to any disciplinary action which could result in loss of the authority conferred by this subsection to prosecute violations of criminal law and to arrest persons committing violations of State and Federal Criminal laws and West Virginia Rule of Criminal Procedure 42 and provisions which expressly preclude from participation persons prohibited by Federal or State law from possessing or receiving a firearm or those under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(5) Any prosecuting attorney or assistant prosecuting attorney who elects to participate in the program authorized by the provisions of this subsection shall be responsible, at his or her expense, for a suitable firearm and ammunition.

(6) It is the intent of the legislation in enacting the amendment to this section during the 2016 Regular Session of the Legislature to authorizing a prosecuting attorney and assistant prosecuting attorneys wishing to do so to meet the requirements of the Federal Law-Enforcement Officer's Safety Act, 18 U. S. C. §926B.

(c) ~~It shall be the duty of~~ The prosecuting attorney ~~to~~ shall keep his or her office open in the charge of a responsible person during the hours when polls are open during general, primary and special county-wide election days, and the prosecuting attorney, or ~~his~~ the prosecuting attorney's assistant, if any, shall be available for the purpose of advising election officials. ~~It shall be the further duty of~~ The prosecuting attorney, when requested by the Attorney General, ~~to~~ shall perform or ~~to~~ assist the Attorney General in performing, in the county

in which ~~he~~ the prosecuting attorney is elected, any legal duties required to be performed by the Attorney General, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of ~~such~~ the county. ~~It shall also be the duty of~~ The prosecuting attorney, when requested by the Attorney General, ~~to~~ shall perform or ~~to~~ assist the Attorney General in performing, any legal duties required to be performed by the Attorney General, in any county other than that in which ~~such~~ the prosecuting attorney is elected, and for the performance of ~~any such~~ these duties in any county other than that in which ~~such~~ the prosecuting attorney is elected ~~he~~ the prosecuting attorney shall be paid his or her actual expenses.

Upon the request of the Attorney General the prosecuting attorney shall make a written report of the state and condition of the several causes in which the state is a party, pending in his or her county, and upon any matters referred to ~~him~~ the prosecuting attorney by the Attorney General as provided by law.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-12. Law-enforcement officers to receive identification and certification to carry weapons off duty.

(a) Every person employed by a West Virginia state, county or municipal agency who is a qualified law-enforcement officer within the meaning of 18 U. S. C. §926B shall receive an appropriate photo identification and certification of training required to carry a concealed firearm under the federal Law Enforcement Officers Safety Act. 18 U. S. C. §926B. No currently employed officer may be charged a fee for the photo identification and certification. This subsection does not prohibit a law-enforcement agency from controlling the use of any department-owned weapon.

(b) When a qualified law-enforcement officer, within the meaning of 18 U. S. C. §926B retires from, or otherwise honorably ceases employment with, a West Virginia state, county or municipal agency, the agency shall provide, at no charge, an appropriate photo identification to show the former employee's status as an honorably separated or retired qualified retired law-enforcement officer within the meaning of 18 U. S. C. §926C. Every West Virginia state, county or municipal agency which conducts firearms qualification for current employees shall offer its honorably retired or separated former employees an opportunity to participate in such firearms qualification on an annual basis. The former employees shall provide at their own expense an appropriate firearm and ammunition and may be charged a fee not to exceed \$25. Upon completion of the training and payment of any fee, the law-enforcement agency shall issue a new photo identification and certification which identifies the former employee as a 'qualified retired law-enforcement officer' who has satisfied the annual training requirements of 18 U. S. C. §926C.

(c) A law-enforcement agency may, in its sole discretion, allow a person who honorably retired or separated from another agency as a qualified law-enforcement officer within the meaning of 18 U. S. C. §926B, the opportunity to participate in firearms qualification the agency provides its own former employees under subsection (b) of this section. A participant shall provide at their own expense an appropriate firearm and ammunition and may be charged a fee not to exceed \$50. Upon completion of the training and payment of any fee, the law-enforcement agency shall issue a certification which states that the retiree satisfied the training requirements of 18 U. S. C. 926C.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 254, Not allowing county park commissions to prohibit firearms in facilities; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, section five, line twelve, immediately following the word “county”, by

striking out the word “court” and inserting in lieu thereof the word “commission”.

And,

On page one, section five, line thirteen, immediately following the word “county”, by striking out the word “court” and inserting in lieu thereof the word “commission”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 265, Allowing library volunteers necessary access to user records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 271, Conforming definition of attest services to Uniform Accountancy Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page ten, section seven, line fifty-two, immediately following the word “article” and the period, by inserting the following two new sections:

§30-9-33. Mandatory Training in federal antitrust law and state action immunity.

It shall be required of the West Virginia Board of Accountancy, and their representatives from the Attorney General’s office, to obtain initial training on the subject of federal antitrust law and state action immunity by July 1, 2016, and thereafter on an annual basis. The purpose of the training is to provide those members with the knowledge to be able to identify the risks of any action that may be taken by the board that could be construed as possible antitrust violations.

§30-9-34. Indemnification.

In the event that a lawsuit is filed alleging violation of federal antitrust laws, the board may indemnify its board members and current

and former employees for expenses reasonably incurred in connection with judicial or administrative proceedings to which they are or may become parties by reason of the performance of their official duties.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 274, Relating to increasing civil jurisdictional amount in magistrate courts; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section one, line four, by striking out “Circuit courts may send any civil case where the amount in controversy is \$10,000 or less to magistrate courts for trial.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory; on second reading, coming up in regular order, was read a second time.

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

“That §60A-4-411 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

§60A-4-411. Operating or attempting to operate clandestine drug laboratories; offenses; penalties.

(a) Any person who operates or attempts to operate a clandestine drug laboratory is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than two years nor more than ten years or fined not less than \$5,000 nor more than \$25,000, or both.

(b) Any person who operates or attempts to operate a clandestine drug laboratory and who as a result of, or in the course of doing so, causes to be burned any dwelling, outbuilding, building or structure of any class or character is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years or fined not less than \$1,000 nor more than \$5,000, or both imprisoned and fined.

~~(b)~~ (c) For purposes of this section, a ‘clandestine drug laboratory’ means any property, real or personal, on or in which a person assembles any chemicals or equipment or combination thereof for the purpose of manufacturing methamphetamine, methylenedioxy-methamphetamine or lysergic acid diethylamide in violation of the provisions of section four hundred one of this article.

(d) The offenses in subsections (a) and (b) of this section are separate and distinct offenses, and not shall not be construed to be a lesser included offense of each other.

(e) For purposes of W.Va. Code §60A-2-1, both subsection (a) and (b) of this section shall be deemed qualifying felony offenses of manufacturing and delivery of a controlled substance.

~~(c)~~ (f) Any person convicted of a violation of subsection (a) or (b) of this section shall be responsible for all reasonable costs, if any, associated with remediation of the site of the clandestine drug laboratory.”

The bill was then ordered to third reading.

S. B. 352, Dedicating corporation net income tax proceeds to railways; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 379, Relating to candidate filing fees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 476, Relating to driving restrictions in school zones; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 6. SPEED RESTRICTIONS.

§17C-6-1. Speed limitations generally; penalty.

(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as ~~may be~~ necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.

(b) Where no special hazard exists that requires lower speed for compliance with subsection (a) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as authorized in this section is lawful, but any speed in excess of the limits specified in this subsection or established as authorized in this section is unlawful. The following speed limits apply:

(1) Fifteen miles per hour in a school zone during school recess or while children are going to or leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending one hundred twentyfive feet along the street or highway from the school grounds. The West Virginia Division of Highways shall erect signage indicating the place of entry and exit of each school zone. Upon a formal vote and a written request by a county board of education to expand a school zone to a road that is adjacent to school property, the West Virginia Division of Highways shall, upon a

determination by the Division that such action is needed and necessary for the safety of the school children, expand the school zone by erecting new signage indicating the expanded school zone's location and speed limit within ninety days of receiving the request. The speed restriction does not apply to vehicles traveling on a controlled-access highway which is separated from the school or school grounds by a fence or barrier approved by the Division of Highways;

(2) Twenty-five miles per hour in any business or residence district; and

(3) Fifty-five miles per hour on open country highways, except as otherwise provided by this chapter.

The speeds set forth in this section may be altered as authorized in sections two and three of this article.

(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(d) The speed limit on controlled access highways and interstate highways, where no special hazard exists that requires a lower speed, shall be not less than fifty-five miles per hour and the speed limits specified in subsection (b) of this section do not apply.

(e) Unless otherwise provided in this section, any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and, upon a third or subsequent conviction within two years thereafter, shall be fined not more than \$500: *Provided*, That if the

third or subsequent conviction is based upon a violation of the provisions of this section where the offender exceeded the speed limit by fifteen miles per hour or more, then upon conviction, shall be fined not more than \$500 or confined in ~~the county or regional~~ jail for not more than six months, or both fined and confined.

(f) Any person who violates the provisions of subdivision (1), subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500: *Provided*, That if the conviction is based upon a violation of the provisions of subdivision (1), subsection (b) of this section where the offender exceeded the speed limit by fifteen miles per hour or more in the presence of one or more children, then upon conviction, shall be fined not less than \$100 nor more than \$500 or confined in ~~the regional or county~~ jail for not more than six months, or both fined and confined: *Provided*, That if the signage required by subdivision (1) is not present in the school zone at the time of the violation, then any person who violates said provision is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than \$25.

(g) If an owner or driver is arrested under the provisions of this section for the offense of driving above the posted speed limit on a controlled access highway or interstate highway and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less above the speed limit, then, upon conviction thereof, that person shall be fined not more than \$5, plus court costs.

(h) Any person operating a commercial motor vehicle engaged in the transportation of coal on the coal resource transportation road system who violates subsection (a), (b) or (c) of this section shall, upon conviction, be subject to fines in triple the amount otherwise provided in subsection (e) of this section.

(i) If an owner or driver is convicted under the provisions of this section for the offense of driving above the speed limit on a controlled access highway or interstate highway of this state and if the evidence

shows that the motor vehicle was being operated at ten miles per hour or less above the speed limit, then notwithstanding the provisions of section four, article three, chapter seventeen-b of this code, a certified abstract of the judgment on the conviction shall not be transmitted to the Division of Motor Vehicles: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter seventeen-e of this code, if the offense was committed while operating a commercial vehicle.

(j) If an owner or driver is convicted in another state for the offense of driving above the maximum speed limit on a controlled access highway or interstate highway and if the maximum speed limit in the other state is less than the maximum speed limit for a comparable controlled access highway or interstate highway in this state, and if the evidence shows that the motor vehicle was being operated at ten miles per hour or less above what would be the maximum speed limit for a comparable controlled access highway or interstate highway in this state, then notwithstanding the provisions of section four, article three, chapter seventeen-b of this code, a certified abstract of the judgment on the conviction shall not be transmitted to the Division of Motor Vehicles or, if transmitted, shall not be recorded by the division, unless within a reasonable time after conviction, the person convicted has failed to pay all fines and costs imposed by the other state: *Provided*, That the provisions of this subsection do not apply to conviction of owners or drivers who have been issued a commercial driver's license as defined in chapter seventeen-e of this code, if the offense was committed while operating a commercial vehicle."

The bill was then ordered to third reading.

S. B. 483, Marshall County LSIC waiver; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page two,

section three-a, line twenty-six, after the year 2016 and the period, by adding thereto a new subdivision to read as follows:

“(3) Section one-a, article eight, chapter eighteen of this code is waived for the schools of Wyoming County for the purpose of increasing the compulsory school attendance age in Wyoming County from seventeen to eighteen years of age as a part of its countywide dropout prevention initiative as requested by letter dated February 25, 2016 and recommended by the Legislative Oversight Commission on Education Accountability on February 25, 2016.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 582, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

S. B. 29, Tolling statute of limitations in certain cases,

S. B. 303, Providing for 5-day resident fishing license,

Com. Sub. for S. B. 376, Expanding authority of Secretary of State and State Police,

S. B. 437, Updating and clarifying code relating to rules governing mixed martial arts,

Com. Sub. for S. B. 500, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network,

And,

S. B. 507, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate B. White.

Remarks by Members

Delegate J. Nelson asked and obtained unanimous consent that the remarks of Delegate Perdue regarding Trevor Noah be printed in the Appendix to the Journal.

Miscellaneous Business

Delegate Hamilton asked and obtained unanimous consent to be removed as a cosponsor of H. B. 2704.

At 12:17 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on and the passage, as amended by said report, to take effect from passage, of

Com. Sub. for H. B. 2800, Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had concurred in the amendments of the House of Delegates, with a title amendment, and again passed a bill of the House of Delegates, heretofore

disapproved by the Governor, all as a result of the objections of the Governor, as follows:

Enr. Com. Sub. for H. B. 4007, Relating generally to appointment of attorneys to assist the Attorney General.

The House of Delegates then proceeded to reconsider the bill (Enr. Com. Sub. for H. B. 4007), in an effort to meet the objections of the Governor.

On motion of Delegate Cowles the House concurred in the Senate title amendment, as follows:

Enr. Com. Sub. for H. B. 4007 — “An Act to amend and reenact §5-3-3 and §5-3-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-3-3a, all relating generally to appointment of attorneys to assist the Attorney General; authorizing the Attorney General to appoint special assistant attorneys general; establishing when special assistant attorneys general can be appointed; establishing competitive bidding process for the use of private attorneys on a contingency fee basis by the Attorney General; requiring written determinations for the Attorney General’s selection of private attorneys to represent the state on a contingency fee basis; setting fees for contingency fee legal arrangements or contracts between private attorneys and the Attorney General; requiring appointed private attorneys to accept an award of attorney fees in accordance with, and no greater than, the established fee limitations; establishing supervision requirements for private lawyers representing the state on a contingency fee basis; requiring the posting of certain documents relating to the Attorney General’s retention of private attorneys to represent the state on a contingency fee basis; providing for the designation as a special assistant attorney general upon appointment; requiring Attorney General reports on certain legal causes and matters to the Governor, President of the Senate and Speaker of the House; outlining contents of those reports;

updating and removing outdated provisions; defining terms; clarifying that the appointment of a special assistant attorney general shall not be construed to alter, inhibit or expand the attorney-client relationship between the Attorney General and the state in the control or conduct of a cause of action; and providing that these new provisions are inapplicable to and shall not impair any contingency fee legal arrangement or contract awarded prior to the effective date.”

The Speaker propounded, “Shall the bill pass, in an effort to meet the objections of the Governor?”

On this question, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 76, nays 8, absent and not voting 16, with the yeas, nays and absent and not voting being as follows:

Yeas: Amber, Atkinson, Azinger, Bates, Blackwell, Blair, Boggs, Butler, Byrd, Cadle, Campbell, Canterbury, Cooper, Cowles, Duke, Ellington, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Folk, Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Hartman, Hill, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, Longstreth, Lynch, Manchin, McCuskey, McGeehan, Miller, Moffatt, Moye, E. Nelson, J. Nelson, O’Neal, Perry, Pethtel, Phillips, Pushkin, Rodighiero, Rohrbach, Romine, Rowan, Rowe, Shaffer, Shott, Skinner, P. Smith, R. Smith, Sobonya, Stansbury, Statler, Summers, Upson, Wagner, Walters, Waxman, Weld, Westfall, P. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hornbuckle, Miley and Sponaugle.

Absent and Not Voting: Anderson, Arvon, Border, Caputo, Deem, Flanigan, Hicks, Marcum, Moore, Morgan, Overington, Perdue, Reynolds, Storch, Trecost and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr.

Com. Sub. for H. B. 4007) passed, as a result of the objections of the Governor.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 421, Terminating behavioral health severance and business privilege tax.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 7 — “Requesting the Division of Highways name bridge number 11186, at mile marker 153 crossing Interstate 79 in Monongalia County, the ‘Rosie the Riveters Memorial Bridge’.”

Whereas, Rosie the Riveter is a cultural icon of the United States, representing the American women who worked in factories and shipyards during World War II, many of whom produced munitions and war supplies. American women sometimes took entirely new jobs replacing the male workers who were in the military. Rosie the Riveter is commonly used as a symbol of feminism and women’s economic power. Similar images of women war workers appeared in other countries such as Great Britain and Australia. Images of women workers were widespread in the media as government posters and commercial advertising was heavily used by the government to encourage women to volunteer for wartime service in factories; and

Whereas, Nearly 19 million women held jobs during World War II. Many of these women had already been working. Only 3 million

new female workers entered the workforce during the time of the war. Although most women took on male dominated trades during World War II, they were expected to return to their everyday housework once men returned from the war; and

Whereas, Rosie the Riveter became most closely associated with another real woman, Rose Will Monroe, who was born in Pulaski County, Kentucky. In 1920 Ms. Monroe moved to Michigan and during World War II she worked as a riveter at the Willow Run Aircraft Factory in Ypsilanti, Michigan, building B-24 bombers for the U.S. Army Air Forces. She was asked to star in a promotional film about the war effort at home. The song “Rosie the Riveter” was popular at the time and Ms. Monroe happened to best fit the description of the worker depicted in the song. “Rosie” went on to become perhaps the most widely recognized icon of that era. The films and posters she appeared in were used to encourage women to go to work in support of the war effort. At the age of 50, Ms. Monroe realized her dream of flying when she obtained a pilot’s license. In 1978, she crashed in her small propeller plane when the engine failed during takeoff. The accident resulted in the loss of one kidney and the sight in her left eye, and ended her flying career. She died from kidney failure on May 31, 1997, age of 77, in Clarksville, Indiana where she was a resident; and

Whereas, According to the Encyclopedia of American Economic History, “Rosie the Riveter” inspired a social movement that increased the number of working American women from 12 million to 20 million by 1944, a 57% increase from 1940. By 1944 only 1.7 million unmarried men between the ages of 20 and 34 worked in the defense industry, while 4.1 million unmarried women between those ages did so. Although the image of “Rosie the Riveter” reflected the industrial work of welders and riveters during World War II, the majority of working women filled nonfactory positions in every sector of the economy. What unified the experiences of these women was that they proved to themselves and the country that they could do a “man’s job”

and could do it well. In 1942, just between the months of January and July, the estimates of the proportion of jobs that would be “acceptable” for women was raised by employers from 29 to 85%; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge design number 11186, at mile marker 153 crossing Interstate 79 in Monongalia County, the “Rosie the Riveters Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge 11186 as the “Rosie the Riveters Memorial Bridge”; and, be it

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 37 — “Requesting Division of Highways to name bridge number 22-1190.04, NB & SB (22A102 & 22A103), latitude 38.18215, longitude -81.84941, on U. S. Route 119, otherwise known as the North Pinnacle Rock Creek Bridge, in Lincoln County, the ‘U. S. Army PFC Willie Paul Wilson Bridge’.”

Whereas, PFC Willie Paul Wilson, known to his family and friends as “Jenkie”, was born on November 11, 1925, in Julian, West Virginia, to John and Elsie Wilson; and

Whereas, PFC Willie Paul Wilson enlisted in the U. S. Army on February 29, 1944, and was assigned to Company K, 1st Platoon, 262nd Regiment; and

Whereas, PFC Willie Paul Wilson was killed on Christmas Eve, 1944, aboard the S. Leopoldville, a Belgian troopship being used in the English Channel to transport troops and supplies for the Allied war effort. On that evening, a German submarine torpedoed the S. Leopoldville when it was only five miles from the shore, killing at least eight hundred and two people in the most deadly tragedy to ever befall an American Infantry Division as the result of an enemy submarine attack; and

Whereas, PFC Willie Paul Wilson was awarded the Purple Heart on June 30, 1945, for the wounds that resulted in his death; and

Whereas, It is fitting that PFC Willie Paul Wilson be memorialized and honored for his great sacrifice in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name bridge numbers 22-1190.04 NB & SB (22A102 & 22A103), latitude 38.18215, longitude -81.84941, on U. S. Route 119, otherwise known as the North Pinnacle Rock Creek Bridge, in Lincoln County, be named the “U. S. Army PFC Willie Paul Wilson Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Willie Paul Wilson Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the family of PFC Willie Paul Wilson.

A message from the Senate, by

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

the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 38 — “Requesting Division of Highways name bridge number 06-64-19.71, EB & WB (06A145, 06A192) (38.41793, -82.26105), locally known as the Ona Mall Bridge, EB and WB, carrying Interstate 64 over Cabell County Route 60/89 in Cabell County, the “U. S. Army PFC Denver Holly Memorial Bridge’.”

Whereas, Denver Holly was born in Livingston, West Virginia, on August 11, 1920. He lived in Holly Grove, Hansford, and in a few other towns in Kanawha County until he was 22 years old; and

Whereas, Denver Holly joined the U. S. Army on July 17, 1942. Denver was a Private First Class and served his country in Europe during World War II. He was an infantryman and, during battles, was an ammunition runner. In 1944, he was wounded twice while serving in France; and

Whereas, PFC Denver Holley’s service during World War II earned him the Purple Heart Medal with Cluster, American Theater Service Ribbon, European African Middle Eastern Service Ribbon and World War II Victory Ribbon; and

Whereas, Following his honorable discharge from the Army following the war, PFC Denver Holley lived in Huntington and Barboursville for 41 years; and

Whereas, PFC Denver Holly passed away on December 17, 2015; and

Whereas, It is fitting that an enduring memorial be established to commemorate his service to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 06-64-19.71, EB & WB (06A145, 06A192) (38.41793,

-82.26105), locally known as the Ona Mall Bridge, EB and WB, carrying Interstate 64 over Cabell County Route 60/89 in Cabell County, the “U. S. Army PFC Denver Holly Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “U. S. Army PFC Denver Holly Memorial Bridge”; and, be it

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 39 — “Requesting Division of Highways to name bridge numbered 13-60-41.35 (13A118), that intersects over Dry Creek, also known as the Dry Creek Bridge, located at latitude 37.79396, 80.30068 on Route 60, Main Street, in White Sulphur Springs, Greenbrier County, the ‘Clifford Family Memorial Bridge’.”

Whereas, The Clifford family of Greenbrier County first settled in White Sulphur Springs in 1879 when John Joseph Clifford, then a railroad conductor, and his new bride, Mary Ann McDonough Clifford, arrived there to establish their residential home; and

Whereas, The Clifford family became prominent in White Sulphur Springs, where they built their home and raised their many children; and

Whereas, The Cliffords of Greenbrier County have a rich history of military service to this country, as two of John Joseph Clifford’s sons were recipients of the distinguished Silver Star; and

Whereas, Leo Michael Clifford, one of John Joseph Clifford's sons, served in WWII in MeuseArgonne, France, in the Argonne Forrest in the 116th Infantry, 29th Division and was wounded and received the Purple Heart for his distinguished and heroic service; and

Whereas, Both of Leo Michael Clifford's sons, Leo Michael Clifford, Jr., and Thomas Rufus Clifford, served in the Korean War; Leo in the U. S. Army and Thomas in the U. S. Navy; and

Whereas, Many other members of the Clifford family played important and pivotal roles in shaping and contributing to the White Sulphur Springs community. In fact, three of John Joseph Clifford's great grandchildren still reside in White Sulphur Springs with their respective families; and

Whereas, It is fitting to memorialize the importance of the Clifford family's longstanding heritage and many civic contributions to the community of White Sulphur Springs in Greenbrier County and their distinguished service in the U. S. military by naming the aforementioned bridge in their cumulative honor; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge numbered 13-60-41.35 (13A118), that intersects over Dry Creek, also known as the Dry Creek Bridge, located at latitude 37.79396, -80.30068 on Route 60, Main Street, in White Sulphur Springs, Greenbrier County, the "Clifford Family Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "Clifford Family Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Gordon W. Lewis, Jr., of White Sulphur Springs, West Virginia.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 41 — “Requesting Division of Highways to name bridge number 03-9/2-0.01 (03A053) (37.95860, -81.85398), locally known as Missouri Fork Bridge, carrying County Route 9/2 over Hewett Creek in Boone County, the ‘U. S. Army SGT Philip Ray Casto Memorial Bridge’.”

Whereas, SGT Philip Ray Casto was born January 29, 1942, in Hewett, the first of three children to Girt and Hazel (Ball) Casto and attended Missouri Fork and Spencer Grade schools and graduated from Scott High School in 1959; and

Whereas, SGT Philip Ray Casto married Doris Jean Caruthers in 1964 and shortly thereafter was drafted into the U. S. Army. He went on to serve his country in Germany, specializing in radio communications and as a rifle sharpshooter. Being honorably discharged in June, 1966, he and his wife returned home to Boone County to await the arrival of their daughter, Debra Chambers; and

Whereas, After his discharge, SGT Philip Ray Casto worked at Barkers’ Hardware and later with Logan Auto Parts in Madison, which he went on to manage for nearly 20 years. SGT Casto never failed to go out on any given night, no matter the time, so that a customer, whether it was a coal mine in need or a friend broken down beside the road, could get the parts needed to be up and running, most times fixing the vehicle himself; and

Whereas, SGT Philip Ray Casto later worked for Eastern States Mine Supply, where he once again served the county day and night supplying any need, retiring in 2004; and

Whereas, SGT Philip Ray Casto loved cars or pretty much anything with a motor. He always made them just a little better.

Everyone knew where to find him when a problem arose with their vehicle. Most weekends you could find SGT Philip Ray Casto building or repairing drag racing cars or riding in the hills of Boone County in the first dune buggy built, of course, by him; and

Whereas, SGT Philip Ray Casto was also an avid gardener. It was never a strange sight for anyone who knew SGT Casto to see him on his tractor preparing for another huge garden. He gave away at least most everything he grew, leaving fresh vegetables on neighbors' porches with no expectation of anything in return; and

Whereas, SGT Casto had a second child, a boy named Steve, born in 1973. Regretfully, he and his wife divorced in 1978, but later remarried and had another son; and

Whereas, Except for the time he served in the Army, SGT Casto lived all of his life in Boone County, and all but eleven of those years were lived on Missouri Fork in Hewitt; and

Whereas, SGT Casto passed away at the Veterans Hospital in Huntington on August 11, 2015. He was 73 years old; and

Whereas, It is fitting that SGT Philip Ray Casto be memorialized and honored for his service in the area where he lived; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Division of Highways to name bridge number 03-9/20.01 (03A053) (37.95860, -81.85398), locally known as Missouri Fork Bridge, carrying County Route 9/2 over Hewett Creek in Boone County, the "U. S. Army SGT Philip Ray Casto Memorial Bridge; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SGT Philip Ray Casto Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Secretary of the Department of Transportation and to the family of SGT Philip Ray Casto.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 42 — “Requesting Division of Highways to name the newly constructed bridge, number 23-10-19.39 (23A365), (37.84226, -81.97681), locally known as the Guyandotte River Bridge, carrying WV Route 10 over the Guyandotte River in Logan County, the ‘U. S. Navy LCDR Helen Elizabeth Peck Memorial Bridge’.”

Whereas, Helen Elizabeth Peck was born on August 28, 1910, in Logan, West Virginia, as one of six children of John Edwin and Minerva Peck, whose American lineage extends back to the time of the Revolutionary War; and

Whereas, Helen Elizabeth Peck attended and graduated from Marshall University with a major concentration in elementary education and mathematics and, subsequently, earned her West Virginia teaching certificate; and

Whereas, Helen Elizabeth Peck became a teacher in Logan County schools and then, during World War II, was commissioned as a Lieutenant in the Women’s Reserve of the U. S. Navy; and

Whereas, Lieutenant Helen Elizabeth Peck served for nearly four years at the hydrographic office with Central Naval Operations in Washington, D. C., where she worked with LORAN navigation, which was a top secret project at that time; and

Whereas, After completing her active duty, Helen Elizabeth Peck continued service in the Naval Reserve where she attained the rank of Lieutenant Commander; and

Whereas, She returned to teaching in Logan County schools where she worked in various positions at the elementary and junior high school levels, including a period as principal of an elementary school, until her retirement in her early 1970s; and

Whereas, Lieutenant Commander Helen Elizabeth Peck was, apart from her period of active duty in military service, a lifelong resident of Logan County; and

Whereas, It is only fitting that we name this bridge in Lieutenant Commander Helen Elizabeth Peck's honor to acknowledge her many years of service to her nation, her students and her community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the newly constructed bridge, number 23-10-19.39 (23A365) (37.84226, -81.97681), locally known as the Guyandotte River Bridge, carrying WV Route 10 over the Guyandotte River in Logan County, the "U. S. Navy LCDR Helen Elizabeth Peck Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Navy LCDR Helen Elizabeth Peck Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate forward a certified copy of this resolution to the Secretary of the Department of Transportation and to the family of Lieutenant Commander Helen Elizabeth Peck.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 44 — “Requesting Division of Highways name bridge number 10-15-10.14 (10A039) (37.98063, -81.29932), locally known as the turnpike Bridge, carrying County Route 15 over I-77 NBL and SBL in Fayette County, West Virginia, the ‘U. S. Marine Corps SGT Mike Plasha Memorial Bridge’.”

Whereas, SGT Mike Plasha was born March 14, 1925, in the coal mining town of Kingston, West Virginia. He was the son of East European immigrants George and Anna Plasha and had five brothers and one sister. His Yugoslavian father was a miner for the Kingston Pocahontas Coal Company; and

Whereas, As a student at Kingston High School, SGT Mike Plasha was considered a star athlete and lettered in football and basketball, but he wanted to enter the military after the war began, hoping to return after the war and eventually become an athletic coach; and

Whereas, SGT Mike Plasha entered the Marine Corps on August 18, 1942. He was first stationed at Camp Lejeune and later Camp Pendleton and then served in the Pacific theater in the 2nd Battalion, 25th Marines, 4th Marine Division; and

Whereas, During the invasion of Ennubirr Island, one of the Marshall Islands, on January 31, 1944, then CPL Plasha pushed ahead with his rifle, killing several Japanese soldiers and urged the Marine forces forward. For his actions, SGT Plasha was awarded the Silver Star; and

Whereas, SGT Mike Plasha’s Silver Star Award reads, “Awarded for actions during the World War II: The President of the United States of America takes pride in presenting the Silver Star (Posthumously) to CPL Mike Plasha (MCSN: 444727), United States Marine Corps, for conspicuous gallantry and intrepidity while serving with Company F, Second Battalion, Twenty-fifth Marines, FOURTH Marine Division in action against enemy Japanese forces during the invasion of Ennubirr Island, Kwajalein Atoll on 31 January 1944. Realizing upon landing

that his machine guns were masked by friendly troops and so of no value in the action, CPL Plasha immediately left his guns with a squad leader and pushed forward alone. With complete disregard for his own safety he took the enemy under fire with his rifle accounting for approximately five Japanese. Noting that the assault rifle troops were moving too slowly he personally led these Marines urging them forward and causing the enemy to fall back. His daring aggressiveness, heroic devotion to duty and intelligent analysis of a critical situation reflected the highest credit upon CPL Plasha and the United States Naval Service"; and

Whereas, Five months later, on June 16, 1944, SGT Mike Plasha, now a Sergeant, again displayed "conspicuous gallantry" during action on Saipan in the Marianas. For this action, he was awarded a Gold Star; and

Whereas, SGT Mike Plasha's Gold Star Award reads: "The President of the United States takes pride in presenting the GOLD STAR in lieu of a second SILVER STAR MEDAL posthumously to SGT MIKE PLASHA, UNITED STATES MARINE CORPS RESERVE for services as set forth in the following: CITATION: 'For conspicuous gallantry and intrepidity as Leader of a Machine-Gun Section serving with the Second Battalion, Twenty-Fifth Marines, Fourth Marine Division, during action against enemy Japanese forces at Saipan, Marianas Islands, on 16 June 1944. In courageous defiance of heavy, enemy mortar and artillery fire, SGT Plasha valiantly led a section of the attack to exposed positions in order to bring fire to bear on strongly fortified enemy gun positions and pillboxes which had resisted the tank-led efforts of an entire battalion for over a day. Persistently firing and throwing hand grenades, he continued to press the attack until extremely heavy casualties forced the withdrawal of our men, later returning to the ridge to assist in the evacuation of the wounded. His daring spirit of aggressiveness and cool determination under intense hostile fire reflect the highest credit upon SGT Plasha and the United States Naval Service.' For the President, Secretary of the Navy'; and

Whereas, SGT Mike Plasha was killed on July 10, 1944, while attempting to rescue a fellow Marine in the Battle of Saipan. He was posthumously awarded the Bronze Star. His body is buried at Highland Park Cemetery in Fayette County; and

Whereas, SGT Mike Plasha's Bronze Star Medal reads: "The President of the United States takes pride in presenting the BRONZE STAR MEDAL posthumously to SGT MIKE PLASHA, UNITED STATES MARINE CORPS RESERVE, for service as set forth in the following CITATION: 'For heroic service as Leader of a Machine-Gun Section serving with the Second Battalion, Twenty-Fifth Marines, Fourth Marine Division, during action against enemy Japanese forces at Saipan, Marianas Islands, on 10 July 1944. Risking his life to rescue a Marine who had been shot at close range by a Japanese sniper, SGT Plasha unhesitatingly ran forward to the area where the man lay exposed to enemy fire but was himself mortally wounded before he could fulfill his voluntary and hazardous mission. His outstanding courage in the face of danger and his valiant spirit of self-sacrifice were in keeping with the highest traditions of the United States Naval Service. He gallantly gave his life for another.' For the President, Secretary of the Navy"; and

Whereas, It was said that SGT Mike Plasha became something of a hero to the boys in the Twenty-fifth Regiment. Recollection of the Early Years, by Frank S. Craig, Jr., contains a tribute to SGT Plasha, and he is memorialized in a poem written by Carl Dearborn. Both men served with him. "So many of us, of 'F' Company, owe so much to Sgt. Mike Plasha. A very brave Marine who would have gone far in life," Dearborn later wrote SGT Mike Plasha's brother, Tom; and

Whereas, It is fitting that an enduring structure commemorate United States Marine Corps SGT Mike Plasha's service to his country during World War II in having made the ultimate sacrifice for his country, his state and his fellow Marines; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 10-15-10.14 (10A039) (37.98063, -81.29932), locally known as Turnpike Bridge, carrying County Route 15 over I-77 NBL and SBL in Fayette County, West Virginia, the “U. S. Marine Corps SGT Mike Plasha Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Marine Corps SGT Mike Plasha Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate forward a certified copy of this resolution to the Commissioner of the Division of Highways and to the family of SGT Mike Plasha.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 45 — “Requesting Division of Highways name bridge in Putnam County, bridge number 40-35-9.68 (40A157) northbound and bridge number 40-35-9.68 (40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the ‘U. S. Army SGT Deforest Lee Talbert Memorial Bridge’.”

Whereas, SGT Deforest Lee Talbert was born January 24, 1982, in Alexandria, Virginia, the son of Gloria Nesbitt and Benjamin Dickens. He graduated from T. C. Williams High School. He moved to West Virginia to attend West Virginia State University where he majored in communications. He enlisted in the West Virginia Army National Guard in Dunbar, West Virginia, and was assigned to Bravo Company, 1/150 AR, in 2001; and

Whereas, SGT Deforest Lee Talbert was mobilized as part of Operation Iraqi Freedom on October 1, 2003, and was reassigned to Charlie Company, 1/150 AR. His company was deployed to the Iraqi

Theater of Operations along with the 1-150th Armor Battalion and the 30th Brigade Team on February 29, 2004. He served as an assistant gunner with the First Platoon, Charlie 12 gun truck. While patrolling on the evening of July 27, 2004, SGT Talbert's convoy was the target of an enemy attack using an improvised explosive device. Three of his fellow soldiers were injured, but SGT Talbert absorbed the brunt of the explosion and was instantly killed. SGT Deforest Lee Talbert received the Army Service Ribbon, the Sharpshooter Marksmanship Badge (Pistol), the Expert Marksmanship Badge (Grenade), SSI/FWS for the 30th Brigade Combat Team and the 1st Infantry Division and, posthumously, a Purple Heart and a Bronze Star with V Device; and

Whereas, SGT Deforest Lee Talbert made the ultimate sacrifice for his country and in doing so represented West Virginia and his country with the highest levels of honor and courage and his sacrifice should not go unnoticed. Naming this bridge in Putnam County for him is an appropriate recognition of his ultimate sacrifice for state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the bridge in Putnam County, bridge number 40-35-9.68 (40A157) northbound and bridge number 40-35-9.68 (40A158) southbound, on Route 35 crossing over 5 and 20 Creek Road, 1.17 miles north of CR 19, the "U. S. Army SGT Deforest Lee Talbert Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SGT Deforest Lee Talbert Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this Resolution to the Commissioner of the Division of Highways and the surviving family members of SGT

Deforest Lee Talbert: Mother, Gloria Nesbitt; father, Benjamin Dickens; sisters, Tawanna Talbert-Loving, Latasha Marble and Chiquita Talbert; brother, James Talbert; and his devoted friend, Frances Hamlet.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 47 — “Requesting Division of Highways name bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the ‘West Virginia State Police SGT Harold E. Dailey Bridge’.”

Whereas, Harold E. Dailey was born on August 3, 1938, in Logan, West Virginia. He graduated from Logan High School in 1957, where he was an all-state baseball pitcher for the Wildcats. After a stint in the U. S. Army, he joined the West Virginia State Police on August 2, 1968, and served until February 25, 1994, when he retired as the Quincy Detachment Commander. He served eastern Kanawha County from detachments in Chelyan, Glasgow and Quincy for much of his career, with stints out of the South Charleston and Cross Lanes detachments as well. Harold E. Dailey lived in the Witcher Creek/Belle area for much of his career, while also living in Malden and Burning Springs during his service time with the State Police; and

Whereas, Harold E. Dailey served the State of West Virginia as a State Trooper for 26 years, his country in the U. S. Army for two years and continues to serve the state as a part-time security officer for the West Virginia Supreme Court; and

Whereas, Naming bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, 81.52307), locally known as U. S. 60

Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge” is an appropriate recognition of his contribution to his country, state, community and Kanawha County; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-60-30.04 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is requested to have made and be placed signs identifying bridge number 20-60-30.4 EB-WB, (20A350-20A349) (38.21983, -81.52307), locally known as U. S. 60 Witcher Creek Bridge EB & WB, carrying U. S. 60 over Witcher Creek in Kanawha County, the “West Virginia State Police SGT Harold E. Dailey Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is directed to forward a copy of this resolution to the Commissioner of the Division of Highways and SGT Harold E. Dailey.

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

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 3rd day of March, 2016, presented to His

Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4366), Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

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

Your Committee on Political Subdivisions has had under consideration:

Com. Sub. for S. B. 263, Allowing travel and other expense reimbursement for members of Municipal Home Rule Board,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 263) was referred to the Committee on Finance.

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

Your Committee on Political Subdivisions has had under consideration:

S. B. 306, Permitting sale of county or district property online,

And,

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they each first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bills (S. B. 306 and S. B. 573) were each referred to the Committee on Government Organization.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 591, Relating to voter registration list maintenance and combined voter registration and driver licensing fund,

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

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

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

S. B. 384, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation,

And,

S. B. 478, Authorizing licensees who sell growlers to offer samples,

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

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

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

Com. Sub. for S. B. 628, Permitting treating physician direct palliative or emergent treatment for patients,

And,

S. B. 658, Allowing licensed professionals donate time to care of indigent and needy in clinical setting,

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

At 5:23 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 4, 2016.

FRIDAY, MARCH 4, 2016

FIFTY-SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, March 3, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 68, on Second reading, House Calendar, to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 343, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 627, Permitting physician to decline prescribing controlled substance,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 469, Clarifying what personal funds are exempt from levy following judgment,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 520, Allowing PEIA ability to recover benefits or claims obtained through fraud,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 104, Classifying Marshall University Forensic Science Center as a criminal justice agency,

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

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 4, CSA LTG Thomas J. “Stonewall” Jackson Bridge,

H. C. R. 8, Harry Ripley Memorial Bridge,

And,

H. C. R. 29, Harry C. “Buck” Markley Jr. Memorial Bridge,

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the bills (H. C. R. 4, H. C. R. 8 and H. C. R. 29) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

Com. Sub. for S. B. 39, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area,

And,

S. B. 94, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 39 and S. B. 94) were each referred to the Committee on Government Organization.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

Com. Sub. for S. B. 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 621) was referred to the Committee on the Judiciary.

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

Com. Sub. for S. B. 592, Relating to pipeline safety,

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

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

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

Com. Sub. for S. B. 47, Rewriting licensing requirements for practice of medicine and surgery and podiatry,

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

In the absence of objection, reference of the bill (Com. Sub. for S. B. 47) was referred to the Committee on Government Organization was abrogated.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 3, North River Mills Historic Trace,

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

Com. Sub. for H. C. R. 3 — “Requesting the Division of Highways to name the section of County Route 45/20, known as Coldstream Road, beginning at a point, latitude 39.336997, longitude -78.494499 and ending a point, latitude 39.349509, longitude -78.511901, along the North River, Hiatt Run and Maple Run, in Hampshire County, the ‘North River Mills Historic Trace’.”

H. C. R. 74, Arnold Miller Memorial Bridge,

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

Com. Sub. for H. C. R. 74 — “Requesting the Division of Highways to name bridge number 2077-83.84 (20A615), located at latitude 38.19560, longitude -81.47926, which carries Interstate 64 and Interstate 77 over Route 79/3, also known as Cabin Creek Road, in Kanawha County, the ‘Arnold Miller Memorial Bridge’.”

H. C. R. 77, U.S. Army SGT Denver E. Short Memorial Bridge,

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

Com. Sub. for H. C. R. 77 — “Requesting the Division of Highways to name the new bridge on State Route 10 located at the east end of Logan Boulevard, Bridge Number 23-10-19.39 (latitude 37.73065, longitude -81.83793), carrying County Route 10 over the Guyandotte River in Logan County, the ‘U.S. Army SGT Denver E. Short Memorial Bridge’.”

H. C. R. 82, U.S. Army SPC David H. Stamper Memorial Bridge,

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

Com. Sub. for H. C. R. 82 — “Requesting the Division of Highways to name Bridge Number 23119-15.56 (23A095) (37.97487, -82.01675), carrying US Route 119, over WV Route 10 near Chapmanville in Logan County, locally known as Chapmanville WV 10 O.P., as the ‘U.S. Army SPC David H. Stamper Memorial Bridge’.”

And,

H. C. R. 90, U.S. Army CPL Fon Mitchell Memorial Bridge,

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

Com. Sub. for H. C. R. 90 — “Requesting the Division of Highways name Bridge Number 2452/1-9.91 (24xxx) (37.44743,

-81.70214) locally known as Roderfield Bridge carrying County Route 52/1 over Tug Fork in Roderfield, McDowell County, the 'U. S. Army CPL Fon Mitchell Memorial Bridge'.”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 3, H. C. R. 74, H. C. R. 77, H. C. R. 82 and H. C. R. 90) were each referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration:

S. B. 329, Eliminating sunset provision for commission to study residential placement of children,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 323, Correcting statute subsection designations regarding trespassing on property,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 581, Eliminating sunset provision terminating pilot domestic violence court program,

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

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 5, 2016, he approved Com. Sub. for H. B. 4175, Com. Sub. for H. B. 4366 and S. B. 558.

The Speaker then laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
Charleston

March 3, 2016

Veto Message

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Room 228M, Building 1
State Capitol Complex
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 4145

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 4145.

This bill authorizes, among other things, United State citizens or legal residents of at least twentyone years of age to carry a concealed

deadly weapon without a license, provided they are not otherwise prohibited from possessing a firearm under state or federal law. Law enforcement officers throughout West Virginia have voiced overwhelming opposition to this bill. In light of their concerns and in the interest of public safety, the exercise of my veto power is appropriate.

Further, I wish to point out that the tax credit provision in §61-7-4(r) is ill-advised and unclear. See p. 9, lines 165-168. Not only will the tax credit have a negative fiscal impact on the state's budget, it will be difficult for the State Tax Department to administer. For example, the tax credit provision fails to identify the tax to which it applies, whether the credit is refundable, and whether it is a one-time credit or may be claimed in subsequent years.

In view of the foregoing, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 4145.

Sincerely,

Earl Ray Tomblin,
Governor.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates proceeded to consider the bill, notwithstanding the objections of the Governor.

The Speaker propounded, "Shall the bill pass, notwithstanding the objections of the Governor?"

On this question, the yeas and nays were taken (**Roll No. 355**), and there were—yeas 64, nays 33, absent and not voting 3, with the yeas, nays and absent and not voting being as follows:

Yeas: Arvon, Azinger, Blair, Boggs, Butler, Cadle, Campbell, Canterbury, Deem, Duke, Eldridge, Ellington, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Fluharty, Folk, Foster, Frich, Gearheart, Hamrick, Hanshaw, Hartman, Hicks, Hill, Householder, Howell, Ihle,

Kelly, Kessinger, Kurcaba, Lane, Marcum, McGeehan, Miller, Moffatt, Moye, J. Nelson, O'Neal, Perry, Phillips, Rodighiero, Rohrbach, Romine, Rowan, Shaffer, Shott, P. Smith, R. Smith, Sobonya, Sponaugle, Stansbury, Statler, Summers, Upson, Wagner, Waxman, Weld, B. White, P. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Ambler, Anderson, Atkinson, Bates, Blackwell, Border, Byrd, Cooper, Cowles, Ferro, Flanigan, Fleischauer, Guthrie, Hamilton, Hornbuckle, Ireland, Longstreth, Lynch, Manchin, McCuskey, Miley, Moore, Morgan, E. Nelson, Perdue, Pethtel, Pushkin, Reynolds, Rowe, Skinner, Storch, Trecost and Westfall.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr. Com. Sub. for H. B. 4145) passed, notwithstanding the objections of the Governor.

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

Special Calendar

Third Reading

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger, Foster and McGeehan.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 13) passed.

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

Com. Sub. for S. B. 13 — “A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to the offense of overtaking and passing school bus stopped for the purpose of receiving and discharging children; designated as “Haven’s Law”; increasing criminal penalties for the offense where the identity of the driver is known; providing for license suspension for the offense where the identity of the driver is known; providing for assessment of administrative fees against the registered owner or lessee in the event that the driver of the passing vehicle cannot be ascertained at time of alleged offense; and increasing penalties for persons convicted of the offense where bodily injury or serious bodily injury occur as a result of the offense.”

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

S. B. 27, Permitting county commissions hire outside attorneys for collection of taxes through courts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 357**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Marcum and McGeehan.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 27) passed.

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

S. B. 27 — “A Bill to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11A-2-2 of said code, all relating to permitting county commissions to hire outside attorneys to prosecute actions or defend the county’s interest in any proceeding before any United States Bankruptcy Court; providing for outside attorney to be reimbursed for actual expenses directly incurred in the representation; providing that engagements of outside counsel be in writing; requiring that hourly engagements with outside attorneys contain a cumulative cap of any hourly fees charged on a per-case basis; requiring that contingency fee agreements with outside attorneys contain a percentage cap on money or things of value recovered; and requiring attorney fees or costs be paid prior to distribution to taxing units.”

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

Com. Sub. for S. B. 102, Conforming to federal Law-Enforcement Officers Safety Act; on third reading, coming up in regular order, was read a third time.

Delegates Marcum and Weld requested to be excused from voting on the passage of Com. Sub. for S. B. 102 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Flanigan, Marcum, McGeehan and Shaffer.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 102) passed.

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

Com. Sub. for S. B. 254, Not allowing county park commissions to prohibit firearms in facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 86, nays 10, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Blackwell, Flanigan, Fleischauer, Guthrie, Hornbuckle, Moore, Perdue, Pushkin, Rowe and Shaffer.

Absent and Not Voting: Caputo, Overington, P. Smith and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 254) passed.

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

On this question, the yeas and nays were taken (**Roll No. 360**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Blackwell, Fleischauer, Moore, Morgan, Pushkin, Rowe and Shaffer.

Absent and Not Voting: Caputo, Overington, P. Smith and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 254) takes effect from its passage.

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

Com. Sub. for S. B. 265, Allowing library volunteers necessary access to user records; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

S. B. 271, Conforming definition of attest services to Uniform Accountancy Act; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended for the offering and consideration of amendments on that reading.

On motion of Delegate Shott, the bill was amended on page one following the enacting clause, by striking the enacting section and inserting in lieu thereof the following:

“That §30-9-2, §30-9-3 and §30-9-7 of the Code of West Virginia, 1931 as amended, be amended and reenacted, and that said Code be amended by adding thereto two new sections, designated as §30-9-33 and §30-9-34, all to read as follows” and a colon.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 361**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 271) passed.

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

S. B. 271 - “A Bill to amend and reenact §30-9-2, §30-9-3 and §30-9-7 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto two new sections, designated as §30-9-33 and §30-9-34, all relating to regulation of the practice of accountancy; redefining attest services; protecting board members from civil liability; revising requirements for issuance of certificate as certified public accountant including criminal background check; requiring Mandatory Training in federal antitrust law and state action immunity for members of the board of accountancy and their representatives from the Attorney General’s office; and providing for indemnification for board members.”

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

Com. Sub. for S. B. 274, Relating to increasing civil jurisdictional amount in magistrate courts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 362**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fast, Sobonya, Sponaugle and Weld.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 274) passed.

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

Com. Sub. for S. B. 274 — “A Bill to amend and reenact §50-2-1 of the Code of West Virginia, 1931, as amended, relating to increasing the civil jurisdictional amount in magistrate courts from \$5,000 to \$10,000.”

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

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended for the offering and consideration of amendments on that reading.

On motion of Delegate Shott, the bill was amended on page one, section four hundred eleven, line sixteen, by striking out the words “W.Va. Code §60A-2-1” and inserting in lieu thereof the words “W.Va. Code §61-2-1”.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 363**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 283) passed.

Delegate Shott moves to amend the title of the bill to read as follows:

Com. Sub. for S. B. 283 — “A Bill to amend and reenact §60A-4-411 of the Code of West Virginia, 1931, as amended, relating to creating a crime of causing the burning of a dwelling, outbuilding, building or other structure while operating or attempting to operate a clandestine drug laboratory; establishing criminal penalties; clarifying the offense as a separate and distinct offense from operation or attempted operation of a clandestine drug laboratory; making clear that operation or attempted operation of a clandestine drug lab is not a lesser included offense; providing that the offenses are qualifying felony offenses of manufacturing and delivery of a controlled substance for purposes of first degree murder; and providing for payment of all reasonable costs, if any, associated with remediation of the site of the clandestine drug laboratory upon conviction.”

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

S. B. 352, Dedicating corporation net income tax proceeds to railways; on third reading, coming up in regular order, was read a third time.

Delegate Boggs requested to be excused from voting on the passage of S. B. 352.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Delegate from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 364**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Cadle, Lynch, Manchin and Skinner.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 352) passed.

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

S. B. 352 — “A Bill to amend and reenact §11-24-43a of the Code of West Virginia, 1931, as amended, relating to the elimination of corporation net income tax proceeds to railways; and specifying that dedication of corporation net income tax proceeds to railways expires and is void on and after January 1, 2016.”

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

On this question, the yeas and nays were taken (**Roll No. 365**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Howell, Lynch, Manchin and Skinner.

Absent and Not Voting: Caputo, Overington and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 352) takes effect from its passage.

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

S. B. 379, Relating to candidate filing fees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 366**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 379) passed.

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

On this question, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Caputo, Overington and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 379) takes effect from its passage.

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

S. B. 476, Relating to driving restrictions in school zones; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger, Ihle and McGeehan.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 476) passed.

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

S. B. 483, Marshall County LSIC waiver; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 369**), and there were—yeas 88, nays 9, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Cowles, Faircloth, Folk, Kurcaba, Lane, Marcum, McGeehan and Moffatt.

Absent and Not Voting: Caputo, Overington and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 483) passed.

Still being in possession of the Clerk, on motion of Delegate Cowles S. B. 483 was taken up for further consideration.

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

S. B. 483 — “A Bill to amend and reenact §18-5A-3a of the Code of West Virginia, 1931, as amended, relating to granting a local school improvement council waivers for the purpose of increasing compulsory school attendance age in Marshall County and Wyoming County.”

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 370**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Faircloth, Folk, Kurcaba, McGeehan, Moffatt and Skinner.

Absent and Not Voting: Caputo, Overington and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 483) takes effect July 1, 2016.

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

Com. Sub. for S. B. 582, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives; on third reading, coming up in regular order, was read a third time.

Delegate Boggs requested to be excused from voting on the passage of Com. Sub. for S. B. 582.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Delegate from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 371**), and there were—yeas 76, nays 21, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Cadle, Duke, Faircloth, Flanigan, Fleischauer, Fluharty, Hornbuckle, Lane, Longstreth, Lynch, Manchin, Marcum, Moore, Rowe, Shaffer, Skinner, Sponaugle, Storch and P. White.

Absent and Not Voting: Caputo, Hicks and Overington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 582) passed.

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

Com. Sub. for S. B. 582 — “A Bill to amend and reenact §11-14C-9 of the Code of West Virginia, 1931, as amended, relating to providing a refundable exemption from the flat rate component of the state motor fuel excise tax on all gallons of motor fuel sold for use

or consumed in railroad diesel locomotives; setting a cap on the exemption per year; requiring a proportionate disbursement if claims exceed the cap; and allowing the Tax Commissioner to propose legislative rules to administer this exemption.”

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

Second Reading

S. B. 29, Tolling statute of limitations in certain cases; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §55-2-21 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-21. Statutes of limitation tolled on claims assertible in civil actions when actions commence.

(a) After a civil action is commenced, the running of any statute of limitation ~~shall be~~ is tolled for, and only for, the pendency of that civil action as to any claim ~~which that~~ that has been or may be asserted ~~therein in the civil action~~ by counterclaim, whether compulsory or permissive, or cross-claim or third party complaint: *Provided*, That if ~~any such a~~ any such a permissive counterclaim would be barred but for the provisions of this section, ~~such the~~ the permissive counterclaim may be asserted only in the action tolling the statute of limitations under this section. This section shall be deemed to toll the running of any statute of limitation with respect to any claim for which the statute of limitation has not expired on the effective date of this section, but only for so long as the action tolling the statute of limitations is pending.

(b) Any defendant who desires to file a third-party complaint shall have one hundred eighty days from the date of service of process of the original complaint, or the time remaining on the applicable statute of limitations, whichever is longer, to bring any third-party complaint against any non-party person or entity: *Provided*, That any new party brought into litigation by a third-party complaint shall be afforded, from the date of service of process of the third-party complaint, an additional 180-day period, or the remaining statute of limitations period, whichever is longer, to file any third-party complaint of its own, and any applicable statute of limitation shall be tolled during this time period.

(c) For purposes of this section, the term ‘third-party complaint’ means a claim brought by a defendant against any person or entity that was not originally a party to the underlying civil action, where the new claim is made a part of the underlying civil action.

(d) This section ~~shall be deemed to toll~~ tolls the running of any statute of limitation with respect to any claim for which the statute of limitation has not expired on the effective date of this section, but only for so long as the action tolling the statute of limitations is pending. This section does not limit the ability of a court to use the doctrine of equitable tolling or the discovery rule to toll the statute of limitations in any action, including any third-party complaint that would otherwise be subject to subsection (b) of this section.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk on page one, by striking everything after the enacting clause and inserting the following:

“That §16-29B-19, §16-29B-19a, §16-29B-20, §16-29B-20a, §16-29B-21 and §16-29B-21a of the Code of West Virginia, 1931, as amended, be repealed; and that §16-29B-1, §16-29B-10 and §16-29B-27 of said code be amended and reenacted to read as follows:

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-1. Legislative findings; purpose.

The Legislature hereby finds ~~and declares~~ that the health and welfare of the citizens of this state is being threatened by unreasonable increases in the cost of health care services, a fragmented system of health care, lack of integration and coordination of health care services, unequal access to primary and preventative care, lack of a comprehensive and coordinated health information system to gather and disseminate data to promote the availability of cost-effective, high-quality services and to permit effective health planning and analysis of utilization, clinical outcomes and cost and risk factors. In order to alleviate these threats: (1) Information on health care costs must be gathered; and (2) ~~a system of cost control must be developed; and~~ (3) an entity of state government must be given authority to ensure the containment of health care costs, to gather and disseminate health care information; to analyze and report on changes in the health care delivery system as a result of evolving market forces, ~~including the implementation of managed care;~~ and to assure that the state health plan, certificate of need program, ~~rate regulation program~~ and information systems serve to promote cost containment, access to care, quality of services and prevention. Therefore, the purpose of this article is to protect the health and well-being of the citizens of this state by guarding against unreasonable loss of economic resources as well as to ensure the continuation of appropriate access to cost-effective, high-quality health care services.

§16-29B-10. Jurisdiction of the board.

Notwithstanding any other provision of this code or state law, after July 1, ~~1984~~ 2016, the jurisdiction of the board or authority as to rates

for health services care ~~shall extend to all hospitals as defined herein doing business in the State of West Virginia (with the exception of hospitals owned and operated by the federal government) ceases to exist.~~

~~(b) Those costs or charges associated with individual health care providers or health care provider groups providing inpatient or outpatient services under a contractual agreement with hospitals (excluding simple admitting privileges) shall be under the jurisdiction of the board. The jurisdiction of the board shall not extend to the regulation of rates of private health care providers or health care groups providing inpatient or outpatient services under a contractual agreement with hospitals when the provision of such service is outside the hospital setting, and shall not extend to the regulation of rates of all other private health care providers practicing outside the hospital setting: *Provided*, That such practice outside of the hospital setting is not found to be an evasion of the purposes of this article.~~

§16-29B-27. Penalties for violations.

In addition to civil remedies set forth, any person or health care provider violating any provision of this article or any valid order or rule lawfully established hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000. Each day of a continuing violation after conviction shall be considered a separate offense. ~~No fines assessed may be considered part of the hospital's costs in the regulation of its rates."~~

On motion of Delegates Ellington and Rowe, the amendment was amended on page two, section ten, line twenty-one, after the period, by inserting the following:

“The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code requiring hospitals, as part of its annual financial disclosure filings, to provide to the authority the average patient charge

of the twenty-five most frequently used out-patient diagnostic services. The authority shall publish the information on its website expressed in terminology that can be understood by the general public.”

The Health and Human Resources amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 303, Providing for 5-day resident fishing license; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 376, Expanding authority of Secretary of State and State Police; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the the bill on page two, section ten, beginning on line twenty-five, by striking out the new subsection “(d)” in its entirety and inserting in lieu thereof the following new subsection “(d)” as follows:

“(d) The Secretary of State shall propose rules for legislative approval to require applicants for any license or permit issued pursuant to this article that shall require each applicant to submit to a criminal history records check. The rule shall provide upon application that the applicant, shall submit to a state and national criminal history record check, as set forth in this subsection:

(1) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(2) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints for the purposes set forth in this section; and

(B) Authorizing the Secretary of State, the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(3) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(4) The criminal history record check and related records are not public records for the purposes of chapter twenty-nine-b of this code.

(5) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(6) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.”

The bill was then ordered to third reading.

S. B. 437, Updating and clarifying code relating to rules governing mixed martial arts; on second reading, coming up in regular order, was read a second time.

Delegate Kelly requested to be excused from voting on S. B. 437 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 5A. STATE ~~ATHLETIC~~ RING SPORTS COMMISSION.

§29-5A-1. Creation of commission; members; officers; seal and rules.

The State ~~Boxing~~ Athletic Commission, formerly the State Boxing Commission, heretofore created, is hereby continued and renamed the State ~~Athletic~~ Ring Sports Commission. The commission shall consist of five persons appointed by the Governor, by and with the consent of the Senate, no more than three of whom shall belong to the same political party and no two of whom shall be residents of the same county at the same time. One member shall have at least three years of experience in the sport of boxing. One member shall have at least three years of experience in the sport of mixed martial arts. One member shall have at least three years of experience in the health care industry as a licensed physician, registered nurse, nurse practitioner or physicians assistant. Two members shall be citizen members who are not licensed under the provisions of this article and who do not perform any services related to the persons regulated under this article. The members shall serve without pay. At the expiration of the term of each member, his or her successor shall be appointed by the Governor for a term of four years. If there is a vacancy in the board, the vacancy shall likewise be filled by appointment by the Governor and the Governor shall likewise have the power to remove any commissioner at his or her pleasure. Any three members of the commission shall constitute a quorum for the exercise of the power or authority

conferred upon it. The members of the commission shall at the first meeting after their appointment elect one of their number chairman of the commission, and another of their number secretary of the commission, shall adopt a seal for the commission, and shall make such rules for the administration of their office, not inconsistent herewith, as they may consider expedient; and they may hereafter amend or abrogate such rules. The concurrence of at least three commissioners is necessary to render a choice or decision of the commission. The commission may, for any event, grant one or more of its members the authority to approve necessary changes to the roster of participants or the roster of officials within forty-eight hours of a scheduled event previously approved by the commission.

§29-5A-3. Commission to have sole control of boxing, etc., matches; licenses; municipality not to tax boxing, etc., club.

(a) The commission has sole direction, management and control of the jurisdiction over all amateur, professional and semiprofessional boxing, sparring matches and exhibitions, or any form thereof, to be conducted, held or given within the state by any club, individual, corporation or association. As used in this article, the term “boxing” includes any fighting event that includes or permits the striking of an opponent with a closed fist, even if wrestling moves, elements of martial arts or striking an opponent with the feet are also permitted. No boxing, sparring or exhibition may be conducted, held or given within the state except pursuant to the commission’s authority and held in accordance with this article. The commission may issue and revoke the license to conduct, hold or give boxing or sparring matches or exhibitions to any club, corporation, association or individual. Every license is subject to rules the commission may prescribe. Every application for a license shall be on a blank form provided by the commission. No promoter’s license may be granted to any club, corporation, association or individual unless the signer of the application is a bona fide resident of the state of West Virginia. Upon application of the promoter’s license, the promoter shall pay a state

license fee of \$125 for one year. The fee is nonrefundable and shall be paid in the form of a certified check or money order issued to the Treasurer of the state of West Virginia to be deposited in the fund set forth in section three-b of this article. Nonprofit chartered and charitable organizations are exempt from this license fee for all amateur events. No municipal corporation may impose any license tax on boxing, sparring or exhibition clubs, notwithstanding the provisions of any section of the code respecting municipal taxes and licenses. The granting of a license to a club by the commission, or the holding of a license by a club, individual, corporation or association, does not prevent the commission from canceling or revoking the license to conduct an event as provided in this section.

(b) In exercising its jurisdiction over professional and semiprofessional boxing, sparring matches and exhibitions, the commission shall follow the current unified rules of boxing adopted by the Association of Boxing Commissions and requirements to enable the proper sanctioning of all participants, referees, judges and matches or exhibitions conducted under the rules described in subdivision (1), subsection (c), section twenty-four of this article and shall cooperate fully with the Association of Boxing Commissions in order that the sanctioning be extended to state boxers. The commission shall supervise all amateur boxing conducted in this state and any such contest shall follow the amateur rules for boxing as adopted by the United States Amateur Boxing Authority. For full contact boxing events and other boxing events that follow nontraditional rules, the commission may impose any limitations or restrictions reasonably necessary to guarantee the safety of the participants and the fair and honest conducting of the matches or exhibitions and may refuse to license any event that poses an unreasonable degree of risk to the participants.

(c) The State Ring Sports Commission is hereby authorized to propose emergency legislative rules pursuant to section fifteen, article three, chapter twenty-nine-a of this code to establish fees to be paid by

promoters for each event. The fees are to be placed into a fund for the sole purpose of employing an administrative secretary: *Provided, That the fund may not be used until July 1, 2017 or as soon thereafter as funds are sufficient to fulfill this purpose: *Provided, however, That nothing in this section shall alter any memorandums of understanding or other agreements between the State Ring Sports Commission, formerly the State Athletic Commission, and any other entity.**

§29-5A-3b. State Athletic Ring Sports Commission Fund.

(a) All moneys collected shall be deposited in a special account in the State Treasury to be known as the State Athletic Ring Sports Commission Fund. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter elevenb of this code: *Provided, That for the fiscal year ending June 30, 2016, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.*

(b) A supplemental appropriation may be authorized by the Legislature for administrative expenditures that exceed collections in the fiscal years ending June 30, 2016, June 30, 2017, and June 30, 2018, or until such time as the commission collections are sufficient to fully fund its operations.

(c) All money collected and deposited in the State Athletic Ring Sports Commission Fund that remains after the commission satisfies its administrative operating obligations shall be surplus revenue funds available for appropriation: *Provided, That the commission may retain surplus revenue funds as long as it allocates the surplus for a specific purpose and approves such funds be carried forward for use in the following fiscal year prior to the end of the fiscal year in which the revenues were collected.*

§29-5A-5. Expense of commission.

On or before December 31 of each year, the secretary of the commission shall present to the Governor projected expenses for the following year. Such projections shall include all expenses and revenues of the commission and its official headquarters. Necessary expenses incurred by the commission shall be submitted on a standard expense form to the Treasurer of the state of West Virginia to be paid from the State ~~Athletic~~ Ring Sports Commission Fund except in such circumstances referred to in subsection (b), section three-b of this article designating such expenses be paid from the General Fund.

§29-5A-15. Reports by clubs to commission; bonds of applicants for license.

Every club, corporation, association or individual which may hold or exercise any of the privileges conferred by this article, shall within twenty-four hours after the determination of any contest, furnish to the commission a written report, duly verified by one of its officers, showing the number of tickets sold for such contest and the amount of the gross proceeds thereof, and such other matters as the commission may prescribe. Before any license shall be granted to any club, corporation, association or individual to conduct, hold or give any boxing, sparring or exhibition, such applicant therefor shall execute and file with the commission a surety bond in the sum of which shall be at the discretion of said commission, to be approved as to form and the sufficiency of the security thereon by the said commission. Such bond shall cover all purses, awards and payments to be paid by the promoter. USA Boxing and the United States Olympic Team are exempt from the requirements for a surety bond.

§29-5A-20. Licenses for contestants, referees and managers.

No professional contestant, trainer, inspector, referee or professional manager may take part in any boxing contest or exhibition unless holding a license from the state that is issued by the commission

upon payment of the following annual license fee schedule: Professional contestant \$25; trainer \$20; inspector \$30; referee \$30 and professional manager \$50. Semiprofessional contestants shall pay a license fee of \$10 for each event. Such fees shall accompany the application and shall be in the form of a certified check or money order and shall be issued to the Treasurer of the state of West Virginia to be deposited in the State ~~Athletic~~ Ring Sports Commission Fund. If a license is not granted, the Treasurer shall refund the full amount.

§29-5A-24. Rules governing contestants and matches.

(a) The commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code.

(b) The commission shall propose such rules to regulate professional and semiprofessional boxers, professional or amateur mixed martial artists, professional and semiprofessional boxing matches and exhibitions and professional or amateur mixed martial arts matches and exhibitions: *Provided*, That for professional boxers and boxing matches and exhibitions, the commission rules shall comply with the current unified rules of boxing as adopted by the Association of Boxing Commissions; for professional mixed martial artists and mixed martial arts matches and exhibitions, the commission rules shall comply with the current unified rules of mixed martial arts as adopted by the Association of Boxing Commissions; for amateur boxers and boxing matches or exhibitions, the commission rules shall comply with the amateur rules for boxing as adopted by the United States Amateur Boxing Authority; and for amateur mixed martial artists and mixed martial arts matches or exhibitions, the commission rules shall follow the current unified rules for the International Sport Karate Association; the World Kickboxing Association or the International Sport Combat Federation of mixed martial arts as adopted by the Association of Boxing Commissions at any given match or exhibition. For full contact boxing and other boxing events that follow nontraditional rules, rules

guaranteeing the safety of the participants and the fair and honest conducting of the matches or exhibitions are authorized.

(c) The commission shall propose separate rules for amateur boxers and amateur boxing, sparring matches and exhibitions as follows:

Rules which comply with the requirements of the rules of the current United States Amateur Boxing Authority to the extent that any boxer complying with them will be eligible to participate in any state, national or international boxing match sanctioned by the current United States Amateur Boxing Authority or the International Amateur Boxing Association.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 500, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 507, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 591, Relating to voter registration list maintenance and combined voter registration and driver licensing fund,

Com. Sub. for S. B. 628, Permitting treating physician direct palliative or emergent treatment for patients,

And,

S. B. 658, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Caputo and Overington.

Miscellaneous Business

Pursuant to House Rule 48, Delegate D. Evans explained that he voted “Yea” but meant to vote “Nay” on Roll No. 355.

Delegate Walters noted to the Clerk that he was absent when the vote was taken on Roll No. 355, and that had he been present, he would have voted “Yea” thereon.

At 12:49 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

* * * * *

EVENING SESSION

* * * * *

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, and requested the concurrence of the House of Delegates in the passage, of

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

Conference Committee Report

Delegate Avron, from the Committee of Conference on matters of disagreement between the two houses, as to

S. B. 509, Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Senate Bill No. 509 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to amendments of the House striking out everything following the enacting clause and inserting new language, and agree to the same as follows:

“That §21-10-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

§21-10-6. Permits; application; annual inspection.

No operator or owner may knowingly permit the operation of an amusement ride or amusement attraction without a permit issued by the Division. Each year and at least fifteen days before the first time the amusement ride or amusement attraction is made available in this state for public use, an operator or owner shall apply for a permit to the Division on a form furnished by the Division and containing any information the Division may require. The Division shall, ~~upon application and~~ within ~~ten~~ thirty days of the first time in the calendar year the ride or attraction is made available in this state for public use, inspect all amusement rides and amusement attractions. The Division shall inspect all stationary rides and attractions at least once every year. The Division may inspect all mobile amusement rides and amusement attractions each time they are disassembled and reassembled for use in

this state. The Division may conduct inspections at any reasonable time without prior notice: *Provided*, That in lieu of performing its own inspection, the Division may accept inspection reports from special inspectors certified by the Division.”

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title as follows:

S. B. 509 — “A Bill to amend and reenact §21-10-6 of the Code of West Virginia, 1931, as amended, relating to Division of Labor inspection of amusement rides and amusement attractions.”

Respectfully submitted,

Craig Blair,
Ryan Ferns,
Herb Snyder,

Lynn Arvon,
Chris Stansbury,
Phyllis White,

*Conferees on the part
of the Senate*

*Conferees on the part
of the House of Delegates*

On motion of Delegate Arvon, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 83, nays 4, absent and not voting 13, with the nays and absent and not voting being as follows:

Nays: Eldridge, Kelly, Lane and Skinner.

Absent and Not Voting: Blair, Caputo, Deem, Flanigan, Hicks, Longstreth, Marcum, Morgan, Overington, Reynolds, Rodighiero, Romine and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 509) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2016, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4228, Relating to transportation network companies.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendment was reported by the Clerk:

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all to read as follows:

ARTICLE 29. TRANSPORTATION NETWORK COMPANIES.

§17-29-1. Definitions.

As used in this article:

(1) ‘Personal vehicle’ means a vehicle that is:

(a) Used by a transportation network company driver to provide a prearranged ride;

(b) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(c) Not a taxicab or for-hire vehicle.

(2) 'Digital network' means any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(3) 'Transportation network company' means a corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to this article and operating in West Virginia that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company does not control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

(4) 'Transportation network company driver' or 'driver' means an individual who:

(A) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(B) Uses a personal vehicle to offer or provide a prearranged ride to transportation network company riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

(5) 'Transportation network company rider' or 'rider' means an individual or persons who use a transportation network company's digital network to connect with a transportation network company driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(6) 'Prearranged ride' means the provision of transportation by a driver to a transportation network company rider, beginning when a

driver accepts a transportation network company rider's request for a ride through a digital network controlled by a transportation network company, continuing while the driver transports the requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include:

(A) Transportation provided using a taxi, limousine or other for-hire vehicle; or

(B) Transportation provided under a ridesharing arrangement, as defined in section one, article twenty-two, chapter seventeen-c of this code or any other type of arrangement or service in which the driver receives a fee that does not exceed the driver's costs associated with providing the ride.

§17-29-2. Not other carriers.

Transportation network companies or transportation network company drivers are not common carriers by motor vehicle or contract carriers by motor vehicle, or motor carriers, as defined in section two, article one, chapter twenty-four-a of this code, nor do they provide taxicab or for-hire vehicle services.

§17-29-3. Transportation Network Company permit required.

(a) A person may not operate a transportation network company in West Virginia without first having obtained a permit from the Division of Motor Vehicles.

(b) The Division of Motor Vehicles shall issue a permit to each applicant that:

(1) Provides proof of an agent for service of process in the State of West Virginia to the Division of Motor Vehicles in accordance with section four of this article;

(2) Provides a copy of a certificate of insurance maintained by the transportation network company in accordance with section eight of this article;

(3) Provides a copy of the transportation network company's zero tolerance for drug or alcohol use policy to the Division of Motor Vehicles in accordance with section twelve of this article;

(4) Provides a copy of the transportation network company's policy prohibiting solicitation or acceptance of street hails to the Division of Motor Vehicles in accordance with section fifteen of this article;

(5) Provides a copy of the transportation network company's policy prohibiting solicitation or acceptance of cash payments from riders to the Division of Motor Vehicles in accordance with section sixteen of this article;

(6) Provides a copy of the transportation network company's policy of nondiscrimination with respect to riders and potential riders to the Division of Motor Vehicles in accordance with section seventeen of this article; and

(7) Has paid an annual permit fee of \$1,000 to the Division of Motor Vehicles.

(c) Any fees collected under the provisions of this article shall be deposited into the Motor Vehicle Fees Fund established in accordance with section twenty-one, article two, chapter seventeen-a of this code. The Division of Motor Vehicles shall use the fees collected for the payment of the costs and expenses necessary for the administration of this article.

§17-29-4. Agent.

A transportation network company shall maintain an agent for service of process in this state.

§17-29-5. Fare collected for services.

On behalf of a transportation network company driver, a transportation network company may charge a fare for the services

provided to riders: *Provided*, That if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare calculation method on its website or within the software application service. The transportation network company shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the transportation network company driver's vehicle.

§17-29-6. Identification of transportation network company vehicles and drivers.

The transportation network company's software application or website shall display a picture of the transportation network company driver and the license plate number of the motor vehicle utilized for providing the prearranged ride before the rider enters the transportation network company driver's vehicle.

§17-29-7. Electronic receipt.

Within a reasonable period of time following the completion of a prearranged ride, a transportation network company shall transmit an electronic receipt to the rider on behalf of the transportation network company driver that lists:

- (a) The origin and destination of the prearranged ride;
- (b) The total time and distance of the prearranged ride; and
- (c) An itemization of the total fare paid, if any.

§17-29-8. Financial responsibility of transportation network companies.

(a) On or before July 1, 2016, and thereafter, a transportation network company driver or transportation network company on the driver's behalf shall maintain primary automobile insurance that recognizes that the driver is a transportation network company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver:

(1) While the transportation network company driver is logged on to the transportation network company's digital network; or

(2) While the driver is engaged in a prearranged ride.

(b) The following automobile insurance requirements apply while a participating transportation network company driver is logged on to the transportation network company's digital network and is available to receive transportation requests, but is not engaged in a prearranged ride:

(1) Primary automobile liability insurance in the amount of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident and \$25,000 for property damage; and

(2) Uninsured and underinsured motorists' coverage as required in section thirty-one, article six, chapter thirty-three of this code.

(3) The coverage requirements of this subsection may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver; or

(B) Automobile insurance maintained by the transportation network company; or

(C) Any combination of paragraphs (A) and (B) of this subdivision.

(c) The following automobile insurance requirements apply while a transportation network company driver is engaged in a prearranged ride:

(1) Primary automobile liability insurance that provides at least \$1,000,000 for death, bodily injury and property damage; and

(2) Uninsured and underinsured motorists' coverage as required in section thirty-one, article six, chapter thirty-three of this code.

(3) The coverage requirements of this subsection (c) may be satisfied by any of the following:

(A) Automobile insurance maintained by the transportation network company driver; or

(B) Automobile insurance maintained by the transportation network company; or

(C) Any combination of paragraphs (A) and (B) of this subdivision.

(d) If insurance maintained by a driver in subsection (b) or (c) has lapsed or does not provide the required coverage, insurance maintained by a transportation network company shall provide the coverage required under this section beginning with the first dollar of a claim and have the duty to defend such claim.

(e) Coverage under an automobile insurance policy maintained by the transportation network company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(f) Insurance required under this section may be placed with an insurer authorized to do business in this state or with a surplus lines insurer eligible under section five, article twelve-c, chapter thirty-three of this code that has a credit rating of no less than 'A-' from A.M. Best or 'A' from Demotech or similar rating from another rating agency recognized by the Insurance Commissioner.

(g) Insurance satisfying the requirements of this section shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under article four, chapter seventeen-d of this code.

(h) A transportation network company driver shall carry proof of coverage satisfying subsections (b) and (c), section eight of this article with him or her at all times during his or her use of a personal vehicle in connection with a transportation network company's digital network. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to the directly interested parties, automobile insurers and investigating police officers,

upon request pursuant to section four, article two-a, chapter seventeen-d of this code. Upon such request, a transportation network company driver shall also disclose to directly interested parties, automobile insurers, and investigating police officers, whether he or she was logged on to the transportation network company's digital network or on a prearranged ride at the time of an accident.

§17-29-9. Disclosures.

The transportation network company shall disclose in writing to transportation network company drivers the following before they are allowed to accept a request for a Prearranged Ride on the transportation network company's digital network:

(1) The insurance coverage, including the types of coverage and the limits for each coverage that the transportation network company provides while the transportation network company driver uses a personal vehicle in connection with a transportation network company's digital network; and

(2) That the transportation network company driver's own automobile insurance policy might not provide any coverage while the driver is logged on to the transportation network company's digital network and is available to receive transportation requests or is engaged in a prearranged ride, depending on its terms.

§17-29-10. Automobile insurance provisions.

(a) Insurers that write automobile insurance in this state may exclude any and all coverage afforded under the policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage included in an automobile insurance policy including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- (2) Uninsured and underinsured motorist coverage;
- (3) Medical payments coverage;
- (4) Comprehensive physical damage coverage; and
- (5) Collision physical damage coverage.

Such exclusions apply notwithstanding any requirement under article four, chapter seventeen-d of this code. Nothing in this section implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to the transportation network company's digital network, while the driver is engaged in a prearranged ride or while the driver otherwise uses a vehicle to transport passengers for compensation. Nothing shall be deemed to preclude an insurer from providing coverage for the transportation network company driver's vehicle, if it so chooses to do so by contract or endorsement.

(b) Automobile insurers that exclude the coverage described in section eight of this article have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this article invalidates or limits an exclusion contained in a policy, including any policy in use or approved for use in this state prior to the enactment of this article that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public. An automobile insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of section eight of this article at the time of loss.

(c) In a claims coverage investigation, Transportation Network Companies shall immediately provide upon request by directly involved parties or any insurer of the transportation network company

driver if applicable, the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the twelve-hour period immediately preceding and in the twelve-hour period immediately following the accident. Insurers providing coverage as set forth in Section C shall disclose upon request by any other such insurer involved in the particular claim, the applicable coverages, exclusions and limits provided under any automobile insurance maintained in order to satisfy the requirements of section eight of this article.

§17-29-11. Limitation on transportation network companies.

(a) Drivers are independent contractors and not employees of the transportation network company if all of the following conditions are met:

(1) The transportation network company does not prescribe specific hours during which a transportation network company Driver must be logged into the transportation network company's digital network;

(2) The transportation network company imposes no restrictions on the transportation network company driver's ability to utilize digital networks from other Transportation Network Companies;

(3) The transportation network company does not assign a transportation network company driver a particular territory in which to operate;

(4) The transportation network company does not restrict a transportation network company driver from engaging in any other occupation or business; and

(5) The transportation network company and transportation network company driver agree in writing that the driver is an independent contractor of the transportation network company.

(b) A transportation network company operating under this article is not required to provide workers' compensation coverage to a

transportation network company driver that is classified as an independent contractor pursuant to this section.

§17-29-12. Zero tolerance for drug or alcohol use.

(a) The transportation network company shall implement a zero tolerance policy regarding a transportation network company driver's activities while accessing the transportation network company's digital network. The zero tolerance policy shall address the use of drugs or alcohol while a transportation network company driver is providing prearranged rides or is logged into the transportation network company's digital network but is not providing prearranged rides, and the transportation network company shall provide notice of this policy on its website, as well as procedures to report a complaint about a driver with whom a rider was matched and whom the rider reasonably suspects was under the influence of drugs or alcohol during the course of the trip.

(b) Upon receipt of such rider complaint alleging a violation of the zero tolerance policy, the transportation network company shall immediately suspend such transportation network company driver's access to the transportation network company's digital network and shall conduct an investigation into the reported incident. The suspension shall last the duration of the investigation.

(c) The transportation network company shall maintain records relevant to the enforcement of this requirement for a period of at least two years from the date that a rider complaint is received by the transportation network company.

§17-29-13. Transportation Network Company driver requirements.

(a) Before allowing an individual to accept trip requests through a transportation Network Company's digital platform:

(1) The individual shall submit an application to the transportation network company, which includes information regarding his or her

address, age, driver's license, motor vehicle registration, automobile liability insurance and other information required by the transportation network company;

(2) The transportation network company shall conduct, or have a third party conduct, a local and national criminal background check for each applicant that shall include:

(A) Multistate/multijurisdiction criminal records locator or other similar commercial nationwide database with validation (primary source search); and

(B) National Sex Offender Registry database.

(3) The transportation network company shall review, or have a third party review, a driving history research report for such individual.

(b) The transportation network company shall not permit an individual to act as a transportation network company driver on its digital network who:

(1) Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including, but not limited to, attempting to evade the police, reckless driving or driving on a suspended or revoked license;

(2) Has been convicted, within the past seven years, of any felony or misdemeanor, driving under the influence, reckless driving, hit and run, or any misdemeanor violent offense or sexual offense, or more than three misdemeanors of any kind;

(3) Is a match in the National Sex Offender Registry database;

(4) Does not possess a valid driver's license;

(5) Does not possess proof of registration for the motor vehicle(s) used to provide prearranged rides;

(6) Does not possess proof of automobile liability insurance for the motor vehicle(s) used to provide prearranged rides; or

(7) Is not at least nineteen years of age.

§17-29-14. Vehicle safety and emissions.

The transportation network company shall require any motor vehicle that a transportation network company driver will use to provide transportation network company services to meet the inspection requirements of section four, article sixteen, chapter seventeen-c of this code or the inspection requirements for a private motor vehicle of the state in which the motor vehicle is registered.

§17-29-15. No street hails.

A transportation network company driver may not solicit or accept street hails.

§17-29-16. No cash trips.

The transportation network company shall adopt a policy prohibiting solicitation or acceptance of cash payments from riders and notify transportation network company drivers of such policy. Transportation network company drivers may not solicit or accept cash payments from riders. Any payment for prearranged rides shall be made only electronically using the transportation network company's digital network or software application.

§17-29-17. No discrimination; accessibility.

(a) The transportation network company shall adopt a policy of nondiscrimination with respect to riders and potential riders and notify transportation network company drivers of such policy; *Provided*, That no provision of this article may be construed to require that the policy of nondiscrimination with respect to riders and potential riders be more stringent than state law governing unlawful discriminatory practices.

(b) Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against riders or potential riders.

(c) Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

(d) A transportation network company may not impose additional charges for providing services to persons with physical disabilities due to those disabilities.

§17-29-18. Records.

A transportation network company shall maintain the following customer records:

(a) Individual trip records of rider customers for at least two years from the date each trip was provided; and

(b) Individual records of transportation network company driver customers at least until the two year anniversary of the date on which a transportation network company driver's customer relationship with the transportation network company has ended.

§17-29-19. Controlling authority.

(a) Notwithstanding any provision of chapter twenty-four or any other provision of this code to the contrary, the regulation of the business activities of transportation network companies and transportation network company drivers is governed exclusively by this article.

(b) Taxation. — No municipality, county or other local governmental entity or special district may impose a special district excise tax, sales tax, use tax, business and occupation tax, or any other tax or fee on, or require a license for, a transportation network company, a transportation network company driver, or a personal vehicle used by a transportation network company driver, where such tax or license relates to, or is imposed upon, the service or privilege of providing prearranged transportation of persons or property. No municipal consumer's sales and service tax and use tax or special

district excise tax may be imposed on the customers of a transportation network company or a transportation network company driver for, or with relation to, purchases of transportation network company transportation services.

(c) *Licensure, registration and qualification.* — No municipality, county or other local governmental entity or special district may require a transportation network company driver to obtain a business license or any other similar authorization to operate within the jurisdiction, or subject a transportation network company or transportation network company driver to any licensure requirement, fee, tax, entry requirement, registration requirement, operating or operational requirement or any other requirement.

(d) *Consumers sales and service tax and use tax exemptions.* —

(1) The provision of prearranged transportation service by a transportation network company driver is exempt from the consumers sales and service tax and use tax imposed under articles fifteen and fifteen-a, chapter eleven of this code.

(2) Transportation Network Companies may assert a lawful and timely exemption from the consumer sales and service tax and use tax, in accordance with section nine, article fifteen, chapter eleven of this code, for purchases of tangible personal property and services directly used in transportation.

(e) *Limitations and interpretation.* —

(1) No provision of this section or this article shall be interpreted to void, abrogate, restrict or affect imposition of the ad valorem property tax on tangible personal property of a transportation network company or of a transportation network company driver by any levying body.

(2) No provision of this section or this article shall be interpreted to void, abrogate, restrict or affect imposition of the state personal

income tax or state corporation net income tax on a transportation network company or a transportation network company driver.

(3) No provision of this section or this article shall be interpreted to void, abrogate, restrict or affect imposition of the motor fuel excise tax on any taxable motor fuel or alternative fuel purchased by any transportation network company or transportation network company driver.

(4) No provision of this section or this article shall be interpreted to void, abrogate, restrict or affect the requirements of chapter eleven of this code for issuance of a business registration certificate for transportation network companies and transportation network drivers.

(5) No provision of this section or this article voids, abrogates, restricts or affects any requirement of state law with relation to licensure of drivers or motor vehicles.

(6) Transportation network company drivers may not assert the exemption from the consumer sales and service tax and use tax, for purchases of tangible personal property and services directly used in transportation under section nine, article fifteen, chapter eleven of this code.”

And,

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

Com. Sub. for H. B. 4228 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §17-29-1, §17-29-2, §17-29-3, §17-29-4, §17-29-5, §17-29-6, §17-29-7, §17-29-8, §17-29-9, §17-29-10, §17-29-11, §17-29-12, §17-29-13, §17-29-14, §17-29-15, §17-29-16, §17-29-17, §17-29-18 and §17-29-19, all relating to transportation network companies; providing definitions; declaring not common carriers, taxi cabs or for-hire vehicle services; requiring permits from the Division of Motor Vehicles for TNCs to operate in the state; outlining requirements for such permits including payment of an annual permit fee; requiring an

agent for service of process; providing for fare collection, identification of TNC vehicles and drivers, and electronic receipts; requiring financial responsibility and disclosure thereof; providing for different level of financial responsibility based on circumstances; requiring disclosures of financial responsibility to TNC drivers; allowing automobile insurers to exclude certain coverages; defining the relationship between drivers and transportation network companies; providing that workers compensation coverage not required under certain circumstances; requiring transportation network companies to adopt a policy of zero tolerance of alcohol or drug use for drivers; requiring for certain record keeping practices; providing requirements for drivers; requiring background checks and other requirements before drives may accept trip requests for TNCs; establishing criteria which disqualify persons from acting as TNC drivers; requiring vehicle inspections; requiring transportation network companies to adopt policies prohibiting solicitation or acceptance of cash payments and a policy of nondiscrimination; prohibiting additional charges for providing services to persons with physical disabilities; requiring customer records to be kept; prescribing certain tax requirements, limitations and exemptions; and prohibiting certain political subdivisions from imposition of licensure or other requirements or fees.”

On motion of Delegate Cowles, the House concurred in the Senate amendments with further amendment, as follows:

On page eight of the Senate amendment, section ten, line twenty-seven, by striking out subsection (c) in its entirety and inserting a new subsection (c) to read as follows:

“(c) In a claims coverage investigation, transportation network companies and any insurer providing coverage under section eight of this article shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of the transportation network company driver if applicable, including the precise times that a transportation network company driver logged on

and off of the transportation network company's digital network in the twelve hour period immediately preceding and in the twelve hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any automobile insurance maintained under section eight of this article."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 373**), and there were—yeas 86, nays 1, absent and not voting 13, with the nays and absent and not voting being as follows:

Nays: Kelly.

Absent and Not Voting: Blair, Caputo, Deem, Flanigan, Hicks, Longstreth, Marcum, Morgan, Overington, Reynolds, Rodighiero, Romine and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4228) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 374**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Caputo, Deem, Flanigan, Hicks, Longstreth, Marcum, Morgan, Overington, Reynolds, Rodighiero, Romine and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2448) takes effect July 1, 2016.

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

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

Committee Reports

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

Your Committee on Finance has had under consideration:

S. B. 349, Updating meaning of federal adjusted gross income,

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

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

Your Committee on Finance has had under consideration:

S. B. 346, Updating projects managed by Project Management Office,

Com. Sub. for S. B. 400, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund,

S. B. 415, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold,

S. B. 439, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances,

And,

S. B. 515, Authorizing payment of certain claims against state,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 345, Relating to parking on state-owned or leased property,

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

In accordance with the former direction of the Speaker, the bill (S. B. 345) was referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration:

S. B. 656, Creating Upper Kanawha Valley Resiliency and Revitalization Program,

Com. Sub. for S. B. 575, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services,

Com. Sub. for S. B. 622, Composition of PEIA Finance Board,

S. B. 648, Allowing local authorities permit flashing traffic signals during low traffic times,

And,

S. B. 552, Eliminating requirement sheriff pay jury costs to State Treasury,

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

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

Com. Sub. for S. B. 634, Creating William R. Laird IV Second Chance Driver's License Act,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 494, Creating Legislative Oversight Commission on Department of Transportation Accountability,

Com. Sub. for S. B. 524, Rewriting Board of Barbers and Cosmetologists article,

And,

S. B. 306, Permitting sale of county or district property online,

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

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

Your Committee on Government Organization has had under consideration:

S. B. 334, Identifying coyote as fur-bearing animal and woodchuck as game animal,

And,

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality,

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

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 267, Modifying removal procedure for certain county, school district and municipal officers,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 267) was referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 474, Exempting DEP construction and reclamation contracts from review and approval,

S. B. 461, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act,

S. B. 678, Relating to ownership and use of conduit providing telephone service,

S. B. 426, Continuing Office of Coalfield Community Development,

Com. Sub. for S. B. 39, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area,

And,

S. B. 94, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program,

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

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

Com. Sub. for S. B. 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 298) was referred to the Committee on the Judiciary.

The Speaker informed the Members that the committee report received this morning for Com. Sub. for S. B. 592 indicated that it was reported with amendment but that there was not an amendment and a corrected committee report has been submitted.

At 5:29 p.m., the House of Delegates adjourned until 11:00 a.m., Saturday, March 5, 2016.

SATURDAY, MARCH 5, 2016

FIFTY-THIRD DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, March 4, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 597, on Third reading, House Calendar, to the Special Calendar; and, Com. Sub. for S. B. 265 on Third reading, and Com. Sub. for S. B. 628, on Second reading, Special Calendar, to the House Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 330, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 338, Compiling and maintaining Central State Mental Health Registry,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 326, Repeal and recodify law relating to contributing to delinquency of minor child,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 416, Allowing terminally ill patients access to investigational products,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 43, Clarifying means of posting to prohibit hunting or trespassing,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 6, Requiring drug screening and testing of applicants for TANF program,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 333, Taking and registering of wildlife,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 484, Relating to reemployment rights of military personnel,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 195 — “Authorizing DHHR to promulgate legislative rules,”

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 429, Adopting two National Association of Insurance Commissioners’ models to protect enrollees and general public and permit greater oversight,

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

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

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 12, Cheat Mountain Salamander as the state symbol of conservation,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended.

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

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 3, North River Mills Historic Trace,

H. C. R. 4, CSA LTG Thomas J. “Stonewall” Jackson Bridge,

H. C. R. 8, Harry Ripley Memorial Bridge,

H. C. R. 11, World Autism Awareness Day,

Com. Sub. for H. C. R. 13, U.S. Army SPC 4 Everette R. Johnson Memorial Bridge,

H. C. R. 20, Funding for the West Virginia National Guard,

Com. Sub. for H. C. R. 34, U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge,

H. C. R. 47, U.S. Army SFC Jesse Muncy Memorial Bridge,

Com. Sub. for H. C. R. 51, U.S. Army PFC Danny Mire Stoneking Memorial Bridge,

Com. Sub. for H. C. R. 54, Byron ‘Bray’ Kelley Memorial Bridge,

Com. Sub. for H. C. R. 56, U.S. Army CPL Robert Eugene Jackson Memorial Bridge,

Com. Sub. for H. C. R. 57, U.S. Army PVT Leander Reel Memorial Bridge,

Com. Sub. for H. C. R. 72, Max G. Parkinson Memorial Bridge,

H. C. R. 78, Requesting the Joint Committee on Government and Finance study professional and occupational boards,

H. C. R. 86, Designating April 16, 2016 as World Voice Day,

H. C. R. 93, Requesting the Joint Committee on Government and Finance study the motor vehicle code,

H. C. R. 94, Requesting the Joint Committee on Government and Finance study the holdings of public property by departments, agencies, commissions, bureaus and boards of the state,

H. R. 6, Honoring the town of Piedmont's 160th anniversary,

H. R. 9, Recognizing March as self-care month in West Virginia,

H. R. 10, Creating support services and programs for childhood cancer patients and families,

H. R. 11, Enhancing hunting, fishing, recreational shooting and other outdoor recreational opportunities as well as strengthen conservation efforts nationwide,

H. R. 13, Designating that March 2016 be proclaimed as Healthy Bodies Healthy Spirits Month,

H. R. 15, Self Injury Awareness Day,

S. C. R. 21, US Army S/SGT Delmer R. Jones Memorial Bridge,

S. C. R. 23, Johnny Mack Bryant Memorial Bridge,

S. C. R. 25, US Army PFC Cornelius Vance Memorial Bridge,

S. C. R. 28, US Marine Corps CPL Ronald "Duke" Varney Memorial Bridge,

S. C. R. 29, US Army SSG Landon Clair Ray and US Army SPC4 Garry Dwight Haynes Memorial Bridge,

S. C. R. 31, US Air Force Staff Sgt Bethel Howard McNeely and US Marine Staff Sgt Clyde Elmo Bryant Bridge,

And,

S. C. R. 42, US Navy LCDR Helen Elizabeth Peck Memorial Bridge,

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

Delegate Ireland, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

Com. Sub. for S. B. 337, Creating 5-year tax credit for businesses on post-mine sites,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 337) was referred to the Committee on Finance.

The Speaker addressed the House stating that a report from the Committee on Government Organization for S. B. 494, Com. Sub. for S. B. 524 and S. B. 306 was received during last evening's session. Language in the report indicated that the bills were reported with title amendments. Those bills have title amendments and amendments and a report with corrected language has been submitted.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 4, 2016, he approved Com. Sub. for H. B. 3019.

Messages from the Senate

A message from the Senate, by

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

S. B. 12 — “A Bill to amend and reenact §7-20-1, §7-20-2, §7-20-3, §7-20-6, §7-20-7, §7-20-7a, §7-20-14, §7-20-15, §7-20-16, §7-20-23 and §7-20-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto twenty-eight new sections, designated §7-20-25, §7-20-26, §7-20-27, §7-20-28, §7-20-29, §7-20-30, §7-20-31, §7-20-32, §7-20-33, §7-20-34, §7-20-35, §7-20-36, §7-20-37, §7-20-38, §7-20-39, §7-20-40, §7-20-41, §7-20-42, §7-20-43, §7-20-44, §7-20-45, §7-20-46, §7-20-47, §7-20-48, §7-20-49, §7-20-50, §7-20-51 and §7-20-52, all relating generally to County Local Powers Act fees; taxes and expenditures for county development; restating short title; amending its purpose and legislative findings; amending certain definitions and adding definitions; amending criteria and requirements to implement and collect certain fees; amending authorization for county commissions to impose impact fees, services fees and other taxes; providing that certain fees and taxes collected may be deposited in special fund and used to pay debt service on revenue bonds issued to finance capital improvements or to finance them on a pay-as-you-go basis; making technical corrections; allowing county commissions and Commissioner of Highways to enter into intergovernmental agreements for construction and modernization of state roads, bridges and related infrastructure and financing in their respective counties; providing procedures for creation and finalization or project plans and amendments of plans; requiring notice to certain locally elected public officials and general public on proposed road, bridge and related infrastructure construction projects and project amendments with opportunity for public comment; providing means to finance cost of proposed road, bridge and related infrastructure construction projects and project amendments; allowing reallocation of ad valorem property taxes after ratification of constitutional amendment of certain property tax collections to finance, in whole or in part, capital improvements to infrastructure; providing for applications for a construction project and the contents of applications; creating special fund; requiring approval of boards of education for reallocation of regular property tax levies; providing for termination of reallocation of levies; authorizing

Commissioner of Highways to issue revenue bonds and refunding bonds to finance road, bridge and related infrastructure projects financed, in whole or in part, by county commissions; providing that all bonds are exempt from tax, are negotiable and are lawful investments; providing procedures for issuance of bonds; allowing projects to also be constructed on pay-as-you-go basis; providing that these powers are supplemental powers of county commissions and Commissioner of Highways; requiring reports; exempting public officials from personal liability; providing a severability clause; and effective dates”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

H. C. R. 97 — “Requesting the Division of Highways to name a portion of County Route 3/5, known as Wills Creek Road, in Kanawha County, beginning at latitude 38.472118, longitude -81.399248 and ending at latitude 38.501480, longitude -81.413276, the ‘U.S. Army SPC 4 Thurman “Duwayne” Young Memorial Road’.”

Whereas, Specialist Truman “Duwayne” Young was born on April 23, 1949, in Elkview, West Virginia, a son of Carrie Marie Chaplan of Uniontown, Ohio, and the late Benjamin Thurman Young; and

Whereas, Specialist Young graduated from Herbert Hoover High School before entering the Army in 1969; and

Whereas, Specialist Young went to Vietnam serving as an Armored Personnel Carrier Operator and Infantry and was honorably discharged in 1971; and

Whereas, Upon returning from serving his country, Specialist Young married Linda Szeles, and they spent twenty-nine loving years together. They were the parents of three sons, Jeffery, James and

Roger, and five daughters, Carol, Lisa Anne, Claire V., Jeannie M. and Christine (deceased); and

Whereas, On August 17, 2011, at the age of sixty-two Specialist Young lost his hard fought battle with cancer caused by exposure to Agent Orange; and

Whereas, Naming this road is an appropriate recognition of Specialist Young's contributions to his country, state and community; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of County Route 3/5, known as Wills Creek Road in Kanawha County, beginning at latitude 38.472118, longitude -81.399248 and ending at latitude 38.501480, longitude -81.413276, the "U.S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the "U.S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road"; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of the Department of Transportation and the family of U.S. Army Specialist 4 Thurman 'Duwayne' Young.

Delegates Howell, Arvon, Ellington, Rohrbach, R. Smith, Walters, Householder, Shott, Espinosa, Miller and Storch offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 98 — "Requesting that the Joint Committee on Government and Finance conduct a study on lowering the state's overall sales and use tax rate ('the sales tax') and eliminating the motor

fuel excise tax ('the fuel tax') for gasoline and diesel, except for aircraft fuel, without reducing the state's revenue."

Whereas, The Joint Committee on Government and Finance is hereby requested to conduct a study to determine a revenue-neutral method to lower the state's overall sales tax and eliminate the fuel tax for gasoline and diesel, variable and fixed, except for the tax on aircraft fuel; and

Whereas, In conducting this study, the Joint Committee on Government and Finance is requested to review the following measures: eliminating all exemptions to the state sales tax, except for exemptions for food and medical items, and dedicating a portion of sales tax proceeds to the State Road Fund equal to that which is currently generated by the fuel tax, as an alternative to the fuel tax; and

Whereas, In conducting this study, the Joint Committee on Government and Finance is requested to determine what the overall sales tax rate would need to be, after implementing the measures listed in the preceding paragraph of this resolution, to generate the same level of revenue that is currently generated by the fuel tax and sales tax; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance conduct a study on lowering the state's overall sales and use tax rate and eliminating the motor fuel excise tax for gasoline and diesel, except for aircraft fuel, without reducing the state's revenue; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature 2017, 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.

Motions

Delegate Folk was recognized and moved to take from the table his motion to commit Com. Sub. for S. B. 597 to the Committee on the Judiciary.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 375**), and there were— yeas 16, nays 77, excused from voting 1, absent and not voting 6, with the yeas, excused from voting and absent and not voting being as follows:

Yeas: Azinger, Byrd, Faircloth, Fast, Folk, Ihle, Kelly, Kurcaba, Lane, McGeehan, Moffatt, J. Nelson, Pushkin, Shaffer, Skinner and P. Smith.

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer, Longstreth and Statler.

Excused from Voting: Rohrbach.

So, a majority of the members present and voting not having voted in the affirmative, the motion to take the motion from the table was rejected.

Special Calendar

Third Reading

S. B. 29, Tolling statute of limitations in certain cases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken, and (**Roll No. 376**) there were, including 2 paired, — yeas

79, nays 17, absent and not voting 4, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Gearheart Nay: Flanigan

Nays: Byrd, Caputo, Eldridge, Ferro, Fluharty, Lynch, Manchin, Marcum, Miley, Moore, Perdue, Pushkin, Rowe, Shaffer, Skinner and Sponaugle.

Absent and Not Voting: Blair, Deem, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 29) passed.

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

Com. Sub. for S. B. 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore in the Chair

Delegates Boggs, Hartman, Miller and Atkinson requested to be excused from voting on the passage of Com. Sub. for S. B. 68 under the provisions of House Rule 49.

Speaker Pro Tempore replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 377**), and there were—yeas 71, nays 24, absent

and not voting 5, with the nays and absent and not voting being as follows:

Nays: Blackwell, Caputo, Eldridge, A. Evans, Ferro, Fluharty, Guthrie, Hicks, Hornbuckle, Lynch, Manchin, Marcum, Miley, Moore, Perdue, Perry, Pushkin, Reynolds, Rowe, Shaffer, Skinner, Sponaugle, Trecoast and P. White.

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 68) passed.

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

S. B. 303, Providing for 5-day resident fishing license; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 378**) there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 303) passed.

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

Com. Sub. for S. B. 376, Expanding authority of Secretary of State and State Police; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: McGeehan and Upson.

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 376) passed.

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

S. B. 437, Updating and clarifying code relating to rules governing mixed martial arts; on third reading, coming up in regular order, was read a third time.

Delegate Kelly requested to be excused from voting on the passage S. B. 437 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 380**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 437) passed.

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

Com. Sub. for S. B. 500, Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill the yeas and nays were taken (**Roll No. 381**) there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 500) passed.

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

S. B. 507, Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 382**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 507) passed.

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

On this question, the yeas and nays were taken (**Roll No. 383**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Flanigan, Fleischauer and Longstreth.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 507) takes effect from its passage.

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

Com. Sub. for S. B. 597, Relating generally to Health Care Authority; on third reading, coming up in regular order, was read a third time.

During debate on the passage of the bill, Delegate R. Smith was recognized and moved the previous question.

On this question, the House divided and the motion for the previous question prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 384**), and there were—yeas 67, nays 22, excused from voting 1, absent and not voting 10, with the nays, excused from voting and absent and not voting being as follows:

Nays: Azinger, Byrd, Fast, Fluharty, Folk, Hamilton, Hanshaw, Ihle, Kurcaba, Lane, Lynch, McGeehan, Moffatt, J. Nelson, Pushkin, Shaffer, Shott, Skinner, P. Smith, Wagner, Waxman and B. White.

Excused from Voting: Rohrbach.

Absent and Not Voting: Blair, Deem, A. Evans, Ferro, Flanigan, Fleischauer, Kelly, Longstreth, Storch and Trecoast.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) passed.

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

Com. Sub. for S. B. 597 — “A Bill to amend and reenact §16-29B-26 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-29B-28, all relating to the Health Care Authority; granting authority to the Health Care Authority to review proposed cooperative agreements; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between hospitals and health care providers; setting forth goals of a cooperative agreement; establishing a review process for cooperative agreements; providing fees; setting forth standards for review of cooperative agreements; granting enforcement powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting forth reporting requirements; allowing the Health Care Authority to render a decision regarding reduced competition when a cooperative agreement pertains to an acquisition, merger or combination of hospitals or health care providers.”

Pursuant to House Rule 48, Delegate Folk explained his vote on the passage of Com. Sub. for S. B. 597 and requested that the remarks be printed in the Journal, as follows:

Delegate Folk: Thank you, Mr. Speaker.

We just took a vote on replacing, it says right in the bill, best interest to supplant competition with regulatory oversight. So we took a vote to replace competition with regulation. That is under the Health Care Authority.

Now there was some mention about what the Supreme Court has done but, the last time I checked, I don't think there has been

too many economists on the Supreme Court. People, I don't find anything in this bill regarding Huntington is specifically stated. This is much broader than that and the bill has much larger policy implications than just the Huntington or the Morgantown area. You have to look no further than the definition of teaching hospital which means a hospital medical center that provides clinical education and training to future and current health professionals. I believe the Berkeley Medical Center and also what used to be called the Jefferson, down in Jefferson, Memorial would also include it. Because it says under the academic medical center with the medical school or one or more affiliated hospitals which would include much more than just Morgantown and Huntington. This is broad, broad implication.

The other thing I find very troubling is that in this new language on page twenty we are going to allow the Governor, of course to appoint with the consent of the Senate, but more importantly we just gave the Governor, without any restriction, the right to set the salary of the Executive Director of the Health Care Authority. We all know that there are many people around the state right now, I know as least one right off the top of my head, is making almost \$300,000 in state government. I find that very problematic.

We are going to study...study regulations. You can look over and over in this bill multiple places it refers to reducing competition. It references on a paragraph on page 39 what a qualified hospital is but I found nowhere in the bill the definition of a qualified hospital. This is the wrong way to go.

This is no different than the ACA at the state level. Everybody in here, well let me put it this way, most of the people on this side of the aisle campaigned against the government intrusion of our health care system. I want to mention one other place that is interesting because there has been mention that we can't have free markets in health care. I challenge everyone to look up the Oklahoma free market surgery center in Oklahoma. They are actually bringing people in the state, mainly from Canada because they can't get health care in a timely manner. That is what happens when the government gets involved. They often times have to go outside their country to get health care in Canada and they come down to the Oklahoma free market center and just an example of how well they do, one of the measures of a good health care system in a hospital is the rate of infection of the facility. The average is around 2½ % nationwide. But, in 2006, .3%; 2007 .3%;

2008, .04%; 2009-2010, .001%; 2011, 2012, 2013, .05% and .015%, .13%. That is all a fraction of what the rest of the country does. So don't tell me free markets don't work.

We just passed a bill here that is now going to become law unless the Governor has a day of wisdom and vetoes it. Let me say that again. We passed a bill in here that we just created more regulation in this state for our health care and, previous of that more importantly, we just took away in a previous vote today the authority of rate setting. This will have no effect except in the long run this policy that we just passed will raise health insurance cost for every citizen of this state.

Thank you, Mr. Speaker.

Pursuant to House Rule 48, Delegates Shott and Lane were also recognized to explain their votes on the passage of Com. Sub. for S. B. 597.

On motion of Delegate Faircloth, having voted on the prevailing side on the passage of Com. Sub. for S. B. 597, the passage of the bill was reconsidered.

Delegate Faircloth then moved to commit the bill to the Committee on the Judiciary.

The Speaker advised the Gentleman that the motion was out of order, stating that the motion to commit the bill to the Committee on the Judiciary was on the table.

Delegate Faircloth then renewed the motion to take from the table the motion to commit the bill to the Committee on the Judiciary.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 385**), and there were—yeas 65, nays 20, excused from voting 1, absent and not voting 14, with the nays, excused from voting and absent and not voting being as follows:

Nays: Anderson, Cadle, Cowles, Eldridge, Foster, Gearheart, Hartman, Hicks, Hornbuckle, Ireland, Miller, Morgan, E. Nelson, O'Neal, Phillips, Reynolds, Rodighiero, Statler, Weld and Zatezalo.

Excused from Voting: Rohrbach.

Absent and Not Voting: Blair, Boggs, Deem, A. Evans, Ferro, Flanigan, Fleischauer, Kelly, Longstreth, Romine, Storch, Trecost, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The Speaker stated the question before the House was the motion to commit the bill to the Committee on the Judiciary.

Delegate Folk was recognized and moved the previous question and, subsequently, by unanimous consent, withdrew his motion.

On the motion to commit the bill to the Committee on the Judiciary, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 386**), and there were—yeas 64, nays 21, excused from voting 1, absent and not voting 14, with the nays, excused from voting and absent and not voting being as follows:

Nays: Anderson, Border, Cadle, Cowles, Eldridge, Foster, Gearheart, Hicks, Hornbuckle, Ireland, Miller, Morgan, E. Nelson, Overington, Perdue, Phillips, Reynolds, R. Smith, Sobonya, Statler and Weld.

Excused from Voting: Rohrbach.

Absent and Not Voting: Blair, Boggs, Deem, A. Evans, Ferro, Flanigan, Fleischauer, Kelly, Longstreth, Romine, Storch, Trecost, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed and the bill was committed to the Committee on the Judiciary.

Second Reading

Com. Sub. for S. B. 591, Relating to voter registration list maintenance and combined voter registration and driver licensing fund; on second reading, coming up in regular order, was read a second time.

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

“That §3-2-3, §3-2-4a, §3-2-12 and §3-2-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-3. State authority relating to voter registration; chief election official.

(a) The Secretary of State, as chief election official of the state as provided in section six, article one-a of this chapter, shall have general supervision of the voter registration procedures and practices and the maintenance of voter registration records in the state and shall have authority to require reports and investigate violations to ensure the proper conduct of voter registration throughout the state and all of its subdivisions. Upon written notice to the clerk of the county commission of a county of the need for voter registration record maintenance and the failure of that clerk to complete such maintenance within ninety days of the notice, the Secretary of State shall make changes in the voter registration data necessary to comply with list maintenance requirements of sections four-a, twenty-three, twenty-five, twenty-six and twenty-seven of this article: *Provided, That*

the secretary shall send the notice by certified mail, return receipt requested.

(b) The Secretary of State, as chief election official of the state, is responsible for implementing, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained and administered at the state level that contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each legally registered voter in the state.

(c) The Secretary of State is hereby designated as the chief election official responsible for the coordination of this state's responsibilities under 42 U.S.C. §1973gg, *et. seq.*, the 'National Voter Registration Act of 1993'. The Secretary of State shall have general supervision of voter registration procedures and practices at agencies and locations providing services as required by the provisions of this article and shall have the authority to propose procedural, interpretive and legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code for application for registration, transmission of applications, reporting and maintenance of records required by the provisions of this article and for the development, implementation and application of other provisions of this article.

§3-2-4a. Statewide voter registration database.

(a) The Secretary of State shall implement and maintain a single, official, statewide, centralized, interactive computerized voter registration database of every legally registered voter in the state, as follows:

(1) The statewide voter registration database shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(2) The statewide voter registration database shall contain the name, registration information and voter history of every legally registered voter in the state.

(3) In the statewide voter registration database, the Secretary of State shall assign a unique identifier to each legally registered voter in the state.

(4) The statewide voter registration database shall be coordinated with other agency databases within the state and elsewhere, as appropriate.

(5) The Secretary of State, any clerk of the county commission, or any authorized designee of the Secretary of State or clerk of the county commission, may obtain immediate electronic access to the information contained in the statewide voter registration database.

(6) The clerk of the county commission shall electronically enter voter registration information into the statewide voter registration database on an expedited basis at the time the information is provided to the clerk.

(7) The Secretary of State shall provide necessary support to enable every clerk of the county commission in the state to enter information as described in subdivision (6) of this subsection.

(8) The statewide voter registration database shall serve as the official voter registration list for conducting all elections in the state.

(b) The provisions of subdivision (6), subsection (a) of this section notwithstanding, the Secretary of State or any clerk of a county commission shall perform maintenance with respect to the statewide voter registration database on a regular basis as follows:

(1) If an individual is to be removed from the statewide voter registration database he or she shall be removed in accordance with the provisions of 42 U. S. C. §1973gg, *et. seq.*, the National Voter Registration Act of 1993.

(2) The Secretary of State shall coordinate the statewide voter registration database with state agency records and shall establish procedures for the removal of names of individuals who are not qualified to vote due to felony status or death. No state agency may withhold information regarding a voter's status as deceased or as a felon unless ordered by a court of law.

(c) The list maintenance performed under subsection (b) of this section shall be conducted in a manner that ensures that:

(1) The name of each registered voter appears in the statewide voter registration database;

(2) Only voters who are not registered, who have requested in writing that their voter registration be canceled, or who are not eligible to vote are removed from the statewide voter registration database;

(3) Duplicate names are eliminated from the statewide voter registration database; and

(4) Deceased individuals' names are eliminated from the statewide voter registration database.

(d) The Secretary of State and the clerks of all county commissions shall provide adequate technological security measures to prevent the unauthorized access to the statewide voter registration database established under this section.

(e) The Secretary of State shall ensure, and may perform such maintenance necessary to ensure, that voter registration records in the state are accurate and updated regularly, including the following:

(1) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42 U. S. C. §1973gg, *et. seq.*, registrants who have not responded to a notice sent pursuant to section twenty six, article two of this chapter, who have not otherwise

updated their voter registration address, and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote;

(2) By participation in programs across state lines to share data specifically for voter registration to ensure that voters who have moved across state lines or become deceased in another state are removed in accordance with state law and 42 U. S. C. §1973gg, *et. seq.*; and

(3) Through safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

(f) Applications for voter registration may be accepted only when the following information is provided:

(1) Except as provided in subdivision (2) of this subsection and notwithstanding any other provision of law to the contrary, an application for voter registration may not be accepted or processed unless the application includes:

(A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number;

(B) In the case of an applicant who has been issued an identification card by the Division of Motor Vehicles, the applicant's identification number; or

(C) In the case of any other applicant, the last four digits of the applicant's Social Security number; and

(2) If an applicant for voter registration has not been issued a current and valid driver's license, Division of Motor Vehicles identification card, or a Social Security number, the Secretary of State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. The number assigned under

this subdivision shall be the unique identifying number assigned under the statewide voter registration database.

(g)(1) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall enter into an agreement to match and transfer applicable information in the statewide voter registration database with information in the database of the Division of Motor Vehicles to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration.

(2) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall enter into an agreement for the Division of Motor Vehicles to provide all name fields, residence and mailing address fields, driver's license or state identification number, last four digits of the Social Security number, date of birth, license or identification issuance and expiration dates, and current record status of individuals eligible to register to vote to the Secretary of State for the purpose of voter registration list maintenance comparison through an interstate data-sharing agreement designated by the Secretary of State as permitted by subdivision (2), subsection (e) of this section.

(h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under 42 U. S. C. §401, *et. seq.*, the Social Security Act. All fees associated with this agreement shall be paid for from moneys in the fund created under section twelve of this article.

§3-2-12. Combined voter registration and driver licensing fund; transfer of funds.

(a) Fifty cents of each license fee collected pursuant to the provisions of section one, article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of a special revenue fund to be known as the Combined Voter Registration and Driver Licensing Fund. The moneys so credited to such fund may be used by the Secretary of State for the following purposes:

(1) Printing and distribution of combined driver licensing or other agency applications and voter registration forms, or for the printing of voter registration forms to be used in conjunction with driver licensing or other agency applications;

(2) Printing and distribution of mail voter registration forms for purposes of this article;

(3) Supplies, postage and mailing costs for correspondence relating to voter registration for agency registration sites and for the return of completed voter registration forms to the appropriate state or county election official;

(4) Reimbursement of postage and mailing costs incurred by clerks of the county commissions for sending a verification mailing, confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a driver licensing or other agency;

(5) Reimbursement to state funded agencies designated to provide voter registration services under this chapter for personnel costs associated with the time apportioned to voter registration services and assistance;

(6) The purchase, printing and distribution of public information and other necessary materials or equipment to be used in conjunction with voter registration services provided by state funded agencies designated pursuant to the provisions of this article;

(7) The development of a statewide program of uniform voter registration computerization for use by each county registration office and the Secretary of State, purchase of uniform voter registration software, payment of software installation costs and reimbursement to the county commissions of not more than fifty percent of the cost per voter for data entry or data conversion from a previous voter registration software program;

(8) Payment of up to fifty percent of the costs of conducting a joint program with participating counties to identify ineligible voters by using the United States postal service information as provided in section twenty-five of this article: *Provided*, That such assistance shall be available only to counties which maintain voter registration lists on the statewide uniform voter data system; ~~and~~

(9) Payment of any dues or fees associated with a program to match and transfer data to and from other states;

(10) Resources related to voter registration and list maintenance;
and

~~(9)~~ (11) Payment or reimbursement of other costs associated with implementation of the requirements of the National Voter Registration Act of 1993 (42 U. S. C. 1973gg): *Provided*, That revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in subdivisions (1) through ~~(8)~~ (10), inclusive, of this subsection.

(b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter twenty-nine-a of this code to provide for the administration of the fund established in subsection (a) of this section.

(c) Any balance in the fund created by subsection (a) of this section which exceeds \$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the General Revenue Fund.

§3-2-23. Cancellation of registration of deceased or ineligible voters.

The Secretary of State or clerk of the county commission shall cancel the registration of a voter:

(1) Upon the voter's death as verified by:

(A) A death certificate from the Registrar of Vital Statistics or a notice from the Secretary of State that a comparison of the records of

the registrar with the county voter registration records show the person to be deceased;

(B) The publication of an obituary or other writing clearly identifying the deceased person by name, residence and age corresponding to the voter record; or

(C) An affidavit signed by the parent, legal guardian, child, sibling or spouse of the voter giving the name and birth date of the voter, and date and place of death;

(2) Upon receipt of an official notice from a state or federal court that the person has been convicted of a felony, of treason or bribery in an election;

(3) Upon receipt of a notice from the appropriate court of competent jurisdiction of a determination of a voter's mental incompetence;

(4) Upon receipt from the voter of a written request to cancel the voter's registration, upon confirmation by the voter of a change of address to an address outside the county, upon notice from a voter registrar of another jurisdiction outside the county or state of the receipt of an application for voter registration in that jurisdiction, or upon notice from the Secretary of State that a voter registration application was accepted in another county of the state subsequent to the last registration date in the first county, as determined from a comparison of voter records; or

(5) Upon failure to respond and produce evidence of continued eligibility to register following the challenge of the voter's registration pursuant to the provisions of section twenty-eight of this article.

§3-2-23a. Cancellation of registration of deceased or ineligible voter.

The Secretary may propose legislative rules regarding the maintenance of the security and privacy of the voter registration

records and the procedures to be followed by clerks of the county commission and the Secretary to make changes in voter registration records, including cancellations.”

On motion of Delegate Shott, the amendment was amended on page one, following the enacting clause, by striking out the enacting section and inserting in lieu thereof the following:

“That §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that said code be amended by adding thereto a new section, designated as §3-2-23a, all to read as follows” and a colon.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 658, Allowing licensed professionals donate time to care of indigent and needy in clinical setting; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 39, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area,

S. B. 47, Rewriting licensing requirements for practice of medicine and surgery and podiatry,

S. B. 94, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program,

Com. Sub. for S. B. 104, Classifying Marshall University Forensic Science Center as a criminal justice agency,

S. B. 306, Permitting sale of county or district property online,

S. B. 323, Correcting statute subsection designations regarding trespassing on property,

S. B. 329, Eliminating sunset provision for commission to study residential placement of children,

S. B. 334, Identifying coyote as fur-bearing animal and woodchuck as game animal,

Com. Sub. for S. B. 343, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records,

S. B. 346, Updating projects managed by Project Management Office,

S. B. 349, Updating meaning of federal adjusted gross income,

Com. Sub. for S. B. 400, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund,

S. B. 415, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold,

S. B. 426, Continuing Office of Coalfield Community Development,

S. B. 439, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances,

S. B. 461, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act,

S. B. 469, Clarifying what personal funds are exempt from levy following judgment,

Com. Sub. for S. B. 474, Exempting DEP construction and reclamation contracts from review and approval,

S. B. 494, Creating Legislative Oversight Commission on Department of Transportation Accountability,

S. B. 515, Authorizing payment of certain claims against state,

Com. Sub. for S. B. 520, Allowing PEIA ability to recover benefits or claims obtained through fraud,

Com. Sub. for S. B. 524, Rewriting Board of Barbers and Cosmetologists article,

S. B. 552, Eliminating requirement sheriff pay jury costs to State Treasury,

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality,

Com. Sub. for S. B. 575, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services,

Com. Sub. for S. B. 581, Eliminating sunset provision terminating pilot domestic violence court program,

Com. Sub. for S. B. 592, Relating to pipeline safety,

Com. Sub. for S. B. 622, Composition of PEIA Finance Board,

S. B. 627, Permitting physician to decline prescribing controlled substance,

S. B. 648, Allowing local authorities permit flashing traffic signals during low traffic times,

S. B. 656, Creating Upper Kanawha Valley Resiliency and Revitalization Program,

And,

S. B. 678, Relating to ownership and use of conduit providing telephone service.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had again passed a bill of the House of Delegates, heretofore disapproved by the Governor, notwithstanding the objections of the Governor, as follows:

Enr. Com. Sub. for H. B. 4145, Relating to carry or use of a handgun or deadly weapon.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for H. B. 4228, Relating to transportation network companies.

A message from the Senate, by

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

H. B. 4235, Relating to the publication requirements of the administration of estates.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

H. B. 4235 — “A Bill to amend and reenact §44-3A-4, §44-3A-4a and §44-3A-32 of the Code of West Virginia, 1931, as amended, all relating to notice requirements for claims against an estate; requiring claims against estates to be filed within sixty days of publication of Class II legal advertisement; modifying language of advertisement to reflect sixty-day deadline for exhibiting claims against estate of decedent; authorizing fiduciary supervisor to proceed with supervision

of estates following expiration of sixty-day deadline; permitting closure after sixty days following publication by short form settlements of estates; and barring recovery for claims against an estate not presented within specified time period except under certain circumstances.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 387**), and there were—yeas 77, nays none, absent and not voting 23, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Blair, Boggs, Deem, A. Evans, Ferro, Flanigan, Fleischauer, Folk, Hartman, Householder, Ireland, Kelly, Longstreth, Phillips, Romine, R. Smith, Sponaugle, Storch, Trecost, Weld, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4235) passed.

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

A message from the Senate, by

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

H. B. 4362, Establishing a felony offense of strangulation.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

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

“ARTICLE 2. CRIMES AGAINST THE PERSON.**§61-2-9d. Strangulation; definitions; penalties.**

(a) As used in this section:

(1) ‘Bodily injury’ means substantial physical pain, illness or any impairment of physical condition;

(2) ‘Strangle’ means knowingly and willfully restricting another person’s air intake or blood flow by the application of pressure on the neck or throat;

(b) Any person who strangles another without that person’s consent and thereby causes the other person bodily injury or loss of consciousness is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,500 or imprisoned in a state correctional facility not less than one year or more than five years, or both fined and imprisoned.”

And,

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

H. B. 4362 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-2-9d, relating to crimes against the person; establishing the felony offense of strangulation; defining terms; and providing penalties.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 388**), and there were—yeas 78, nays none, absent and not voting 22, with the absent and not voting being as follows:

Absent and Not Voting: Azinger, Blair, Boggs, Deem, A. Evans, Ferro, Flanigan, Fleischauer, Hartman, Householder, Ireland, Kelly, Longstreth, Phillips, Romine, R. Smith, Sponaugle, Storch, Trecost, Weld, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4362) passed.

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

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blair, Deem, Flanigan, Fleischauer and Longstreth.

Miscellaneous Business

Delegate Caputo noted to the Clerk that due to a death in his family he was absent on March 3 and March 4 when the votes were taken on Roll Nos. 354 through 374, and that had he been present, he would have voted “Yea” on Roll Nos. 356 through 370 and Roll Nos. 372 through 374; and he would have voted “Nay” on Roll Nos. 354, 355 and 371.

Delegate Marcum noted to the Clerk that he was absent on yesterday when the votes were taken on Roll Nos. 372, 373 and 374, and that had he been present, he would have voted “Yea” thereon.

Delegate Rodighiero noted to the Clerk that he was absent when the vote was taken on Roll Nos. 372 through 374 and had he been present, he would have noted “Yea” thereon.

At 1:58 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 7, 2016.

MONDAY, MARCH 7, 2016

FIFTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Saturday, March 5, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to the Seventh Order of Business for the purpose of introduction and consideration of a resolution.

Resolutions Introduced

Delegates Ambler, Anderson, Arvon, Atkinson, Azinger, Bates, Blackwell, Blair, Boggs, Border, Butler, Byrd, Cadle, Campbell, Canterbury, Caputo, Cooper, Cowles, Deem, Duke, Eldridge, Ellington, Espinosa, A. Evans, Faircloth, Fast, Ferro, Flanigan, Fleischauer, Fluharty, Folk, Foster, Frich, Gearheart, Guthrie, Hamilton, Hamrick, Hanshaw, Hartman, Hicks, Hill, Hornbuckle, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, Longstreth, Manchin, Marcum, McCuskey, McGeehan, Miley, Miller, Moffatt, Moore, Morgan, Moye, Mr. Speaker (Mr. Armstead), E. Nelson, J. Nelson, O'Neal, Overington, Perdue, Perry, D. Evans, Lynch, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Romine, Rowan, Rowe, Shaffer, Shott, Skinner, P. Smith, R. Smith, Sobonya, Sponaule, Stansbury, Statler, Storch, Summers, Trecost,

Upson, Wagner, Walters, Waxman, Weld, Westfall, B. White, P. White and Zatezalo offered the following resolution, which was read by the Clerk, as follows:

H. R. 18 — “Honoring and memorializing the life of Phyllis J. Rutledge who served for ten years in the West Virginia Legislature.”

Whereas, In 1960, when hearing John F. Kennedy say, “Ask not what your country can do for you; ask what you can do for your country”, Phyllis J. Rutledge felt he was speaking to her, thus beginning a long political career; and

Whereas, Phyllis J. Rutledge was first elected to the West Virginia House of Delegates in 1968 and served until 1972, and serving again from 1988-1994; and

Whereas, Phyllis J. Rutledge served as Speaker Pro Tempore during the 71st Legislature and was the first woman to do so; and

Whereas, Phyllis J. Rutledge served as Chairwoman of the Banking Committee during the 70th Legislature. She also served on the Banking and Insurance, Health and Welfare and Finance Committees, as well as many other committees; and

Whereas, While serving her second stint as a legislator, many members were taken under her wing and “taught the ropes”. Phyllis J. Rutledge was one of the most respected members, and it was said that when Phyllis J. Rutledge spoke, everybody listened; and

Whereas, Phyllis J. Rutledge was the first woman to be elected as the Kanawha County Circuit Clerk, serving from 1972 through 1984. As the Circuit Clerk, she was responsible for greatly reducing the backlog of old civil cases and modernizing the record system into the computer age; and

Whereas, Another of Phyllis J. Rutledge’s proud accomplishments was being the Kanawha County Coordinator for Hillary Clinton’s presidential campaign. She was responsible for orchestrating the now

famous “Honk and Wave” campaign which helped give Hillary her victory in West Virginia; and

Whereas, Phyllis J. Rutledge was the recipient of the West Virginia Humanitarian of the Year in 1994, and is on the list of Famous West Virginians due to her many accomplishments for the people of West Virginia; and

Whereas, Phyllis J. Rutledge also served as a lobbyist to the West Virginia Legislature where she represented such groups as the American Cancer Society and the West Virginia Society for Respiratory Care; and

Whereas, Phyllis was the mother of son, James, and daughter, Jeannie, grandmother of four and great-grandmother of four; and

Whereas, Following a long and illustrious life and career in politics the Honorable Phyllis J. Rutledge passed away at Dunbar Health Care on May 1, 2015; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby honors one of its own, Phyllis J. Rutledge who most ably served for ten years in the West Virginia Legislature; and, be it

Further Resolved, That the House of Delegates memorializes the life of Phyllis J. Rutledge, a unique and singular individual who devoted her life to better the lives of the citizens of Kanawha County as well as all West Virginians; and, be it

Further Resolved, That the Clerk of the House of Delegates prepare a copy of this resolution for the members of the West Virginia House of Delegates, the Governor, and her children, Jeannie Scheirman of Mt. Pleasant, South Carolina and James Rutledge of Charleston, West Virginia.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 18) to a committee was dispensed with, and it was taken up for immediate consideration.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 389**), and there were--yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Cadle, Canterbury, McCuskey, Morgan, Rohrbach and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 18) adopted.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 545, Relating to asbestos abatement on oil and gas pipelines,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 691, Modifying certain air pollution standards,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 516, Relating to registration for selective service,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 384, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 634, Creating William R. Laird IV Second Chance Driver's License Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank Act,

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

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 4th day of March, 2016, 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. 2800), Adding law-enforcement officers' contact information and names of family members to the list of exemptions from public records requests,

(Second Enrollment Com. Sub. for H. B. 4007), Relating generally to appointment of attorneys to assist the Attorney General,

And,

(Com. Sub. for H. B. 4163), Providing the authority and procedure for municipalities to give notice to, and publish the names of, entities delinquent in paying business and occupation taxes.

Delegate Walters, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 468, Allowing lender charge and receive interest on rescindable loan during rescission period,

And,

S. B. 613, Defining total capital for purposes of calculating state-chartered bank's lending limit,

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

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 468 and S. B. 613) were each referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 525, Relating to WV Insurance Guaranty Association Act,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 525) was referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 270, Repealing code relating to insurance policies,

Com. Sub. for S. B. 278, Clarifying physicians' mutual insurance company is not state or quasi-state actor,

And,

Com. Sub. for S. B. 501, Relating to trusts,

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

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 270, Com. Sub. for S. B. 278 and Com. Sub. for S. B. 501) were each referred to the Committee on the Judiciary.

Delegate McCuskey, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

Com. Sub. for S. B. 517, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 517) was referred to the Committee on Finance.

Delegate Evans, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

Com. Sub. for S. J. R. 14, “Right to Farm and Ranch Amendment”,

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

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for S. J. R. 14) was referred to the Committee on the Judiciary.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hanshaw, Ireland and Byrd.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House and the passage, as amended, of

Com. Sub. for S. B. 27, Permitting county commissions hire outside attorneys for collection of taxes through courts.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 254, Not allowing county park commissions to prohibit firearms in facilities.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Weld, Sobonya and Shaffer.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House and the passage, as amended, of

Com. Sub. for S. B. 582, Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives.

Special Calendar

Unfinished Business

The following resolutions, coming up as unfinished business, were reported by the Clerk:

H. R. 6, Honoring the town of Piedmont's 160th anniversary,

H. R. 9, Recognizing March as self-care month in West Virginia,

H. R. 10, Creating support services and programs for childhood cancer patients and families,

H. R. 11, Enhancing hunting, fishing, recreational shooting and other outdoor recreational opportunities as well as strengthen conservation efforts nationwide,

H. R. 13, Designating that March 2016 be proclaimed as Healthy Bodies Healthy Spirits Month,

H. R. 15, Self Injury Awareness Day,

S. C. R. 21, US Army S/SGT Delmer R. Jones Memorial Bridge,

S. C. R. 23, Johnny Mack Bryant Memorial Bridge,

S. C. R. 25, US Army PFC Cornelius Vance Memorial Bridge,

S. C. R. 28, US Marine Corps CPL Ronald "Duke" Varney Memorial Bridge,

S. C. R. 29, US Army SSG Landon Clair Ray and US Army SPC4 Garry Dwight Haynes Memorial Bridge,

S. C. R. 31, US Air Force Staff Sgt Bethel Howard McNeely and US Marine Staff Sgt Clyde Elmo Bryant Bridge,

S. C. R. 42, US Navy LCDR Helen Elizabeth Peck Memorial Bridge,

Com. Sub. for H. C. R. 3, North River Mills Historic Trace,

H. C. R. 4, CSA LTG Thomas J. "Stonewall" Jackson Bridge,

H. C. R. 8, Harry Ripley Memorial Bridge,

H. C. R. 11, World Autism Awareness Day,

Com. Sub. for H. C. R. 12, Cheat Mountain Salamander as the State symbol of conservation,

Com. Sub. for H. C. R. 13, U.S. Army SPC 4 Everette R. Johnson Memorial Bridge,

H. C. R. 20, Funding for the West Virginia National Guard,

Com. Sub. for H. C. R. 34, U.S. Marine Corps PFC Billy Joe Vickers Memorial Bridge,

H. C. R. 47, U.S. Army SFC Jesse Muncy Memorial Bridge,

Com. Sub. for H. C. R. 51, U.S. Army PFC Danny Mire Stoneking Memorial Bridge,

Com. Sub. for H. C. R. 54, Byron ‘Bray’ Kelley Memorial Bridge,

Com. Sub. for H. C. R. 56, U.S. Army CPL Robert Eugene Jackson Memorial Bridge,

Com. Sub. for H. C. R. 57, U.S. Army PVT Leander Reel Memorial Bridge,

Com. Sub. for H. C. R. 72, Max G. Parkinson Memorial Bridge,

H. C. R. 78, Requesting the Joint Committee on Government and Finance study professional and occupational licensing boards,

H. C. R. 86, Designating April 16, 2016 as World Voice Day,

H. C. R. 93, Requesting the Joint Committee on Government and Finance study the motor vehicle code,

And,

H. C. R. 94, Requesting the Joint Committee on Government and Finance study the holdings of public property by departments, agencies, commissions, bureaus and boards of the state.

On motion of Delegate Cowles, H. R. 6, H. R. 9, H. R. 10, H. R. 11, H. R. 13, H. R. 15, S. C. R. 21, S. C. R. 23, S. C. R. 25, S. C. R. 28, S. C. R. 29, S. C. R. 31, S. C. R. 42, Com. Sub. for H. C. R. 3, H. C. R. 4, H. C. R. 8, H. C. R. 11, Com. Sub. for H. C. R. 13, H. C. R. 20, Com. Sub. for H. C. R. 34, H. C. R. 47, Com. Sub. for H. C. R. 51, Com. Sub. for H. C. R. 54, Com. Sub. for H. C. R. 56, Com. Sub. for H. C. R. 57, Com. Sub. for H. C. R. 72, H. C. R. 78, H. C. R. 86, H. C. R. 93 and H. C. R. 94 were each taken up for immediate consideration and adopted.

On motion of Delegate Cowles, Com. Sub. for H. C. R. 12 was taken up for immediate consideration.

An amendment, recommended by the Committee on Rules, was reported by the Clerk and adopted, amending Com. Sub. for H. C. R. 12 on page one, line one, by striking out everything and inserting in lieu thereof the following:

Com. Sub. for H. C. R. 12 — “Requesting the Division of Natural Resources to designate the Cheat Mountain Salamander as the State symbol of environmental stewardship.

Whereas, The 4th Grade Extended Studies students of Jennings Randolph Elementary School have completed an extensive study of the various West Virginia state symbols. These symbols were used by the students to learn about the history, culture, geography, and ecology of West Virginia which led them to discover that no state, including West Virginia, has a symbol of environmental stewardship. This led to many discussions among the students and resulted in them deciding that West Virginia should have a symbol of environmental stewardship; and

Whereas, From their research, the students learned about the Cheat Mountain salamander (*Plethodon netting*), a species of small, woodland salamander found only on Cheat Mountain and a few nearby

mountains in the eastern highlands of West Virginia. They also learned that the Cheat Mountain salamander has decreased in population due to the destruction of its original red spruce forest habitat that, in the highest elevations, once covered the mountain tops in portions of Grant, Tucker, Randolph, Pendleton, Pocahontas, Greenbrier, Nicholas, and Webster Counties. Other factors such as pollution, drought, forest storm damage, and competition with other salamanders, especially its relative, the red-backed salamander, have also led to the Cheat Mountain salamander population reduction; and

Whereas, The 4th Grade Extended Studies students believe the story of the Cheat Mountain salamander speaks volumes about the state's rich history in practicing environmental stewardship and can help teach how important conservation is in designated areas; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Natural Resources is requested to designate the Cheat Mountain salamander as the state symbol of environmental stewardship; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the 4th Grade Extended Studies students and teachers of Jennings Randolph Elementary School.”

The resolution, as amended, was then adopted.

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

Third Reading

Com. Sub. for S. B. 591, Relating to voter registration list maintenance and combined voter registration and driver licensing fund;

on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

S. B. 658, Allowing licensed professionals donate time to care of indigent and needy in clinical setting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 390**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Cadle and McCuskey.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 658) passed.

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

Second Reading

Com. Sub. for S. B. 39, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 47, Rewriting licensing requirements for practice of medicine and surgery and podiatry; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page four, line sixty-eight, after the word "members", by inserting "band member, cheerleader, mascot" and a comma.

And,

On page five, line ninety-four, after the word "facility", by striking the comma and inserting "for not less than one year nor more than five years".

The bill was then ordered to third reading.

S. B. 94, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 104, Classifying Marshall University Forensic Science Center as a criminal justice agency; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section twenty-four-c, line fifteen, by striking out all of subsection (e).

The bill was then ordered to third reading.

S. B. 306, Permitting sale of county or district property online; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk on page one, section three, line five, following the word "sold" by inserting the word "either".

On page one, section three, line six, following the word "Internet-based", by inserting the words "public auction".

And,

On page one, section three, line nine, following the word "Internet-based", by inserting the words "public auction".

Delegate Ireland requested to be excused from voting on questions relating to S. B. 306 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The amendment offered by the Committee on Government Organization was then adopted.

The bill was then ordered to third reading.

S. B. 323, Correcting statute subsection designations regarding trespassing on property; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 329, Eliminating sunset provision for commission to study residential placement of children; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 334, Identifying coyote as fur-bearing animal and woodchuck as game animal; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page two, section two, line twenty-three, before the words “the coyote”, by adding the words “canis latrans var., more commonly known as”.

And,

On page two, line twenty-eight, before the word “woodchuck”, by adding the words “marmota monax, more commonly known as”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 343, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one,

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §52-2-11, to read as follows:

ARTICLE 2. GRAND JURIES.

§52-2-11. Materials subpoenaed by grand jury; authorizing custodian possession and use thereof.

(a) For purposes of this section:

(1) ‘Prosecuting attorney’ means a prosecuting attorney, assistant prosecuting attorney or duly appointed special prosecuting attorney.

(2) ‘Investigator’ means an investigator employed by a prosecuting attorney’s office or an employee of a state agency authorized by the provisions of this code to perform criminal investigations.

(b) Notwithstanding any provision of this code to the contrary, records, items or other evidence subpoenaed, received and ratified by a grand jury may, in the discretion of the prosecuting attorney, be permitted to be delivered to a designated law-enforcement officer or investigator who may serve as the custodian of the records, items or other evidence. The designated custodian conducting an investigation to which the subpoenaed records, items or other evidence are relevant may keep, review and analyze the records and otherwise use the subpoenaed materials for legitimate investigative purposes. Should circumstances arise which require the designation of a successor custodian, the successor custodian shall comply with the provisions of subsection (c) of this section.

(c) Prior to providing a subpoenaed record, item or other evidence to a designated custodian as authorized by subsection (a) of this section, the prosecuting attorney shall prepare and have the

law-enforcement officer or investigator execute a disclosure statement acknowledging that the record, item or other evidence is secret under Rule 6(e) of the West Virginia Rules of Criminal Procedure. The prosecuting attorney shall file all disclosure statements, under seal, with the clerk of the circuit court. The existence or contents of any record, item or other evidence subject to the provisions of this section may be disclosed to another law-enforcement officer or investigator for legitimate investigative purposes with the written authorization of the prosecuting attorney and that officer's or investigator's execution of a disclosure statement.

(d) The designated custodian may retain the record, item or other evidence in his or her possession, care, custody or control until the termination of the investigation or prosecution.”

The bill was then ordered to third reading.

S. B. 346, Updating projects managed by Project Management Office; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 349, Updating meaning of federal adjusted gross income; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 400, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 415, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 426, Continuing Office of Coalfield Community Development; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 439, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 461, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 469, Clarifying what personal funds are exempt from levy following judgment; on second reading, coming up in regular order, was read a second time.

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

“That §38-5A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §38-8-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 38. LIENS.

ARTICLE 5A. SUGGESTIONS OF SALARY AND WAGES OF PERSONS ENGAGED IN PRIVATE EMPLOYMENT.

§38-5A-3. Application for suggestee execution against salary or wages; extent of lien and continuing levy; exemption; priority among suggestee executions.

(a) A judgment creditor may apply to the court in which the judgment was recovered or a court having jurisdiction of the same, without notice to the judgment debtor, for a suggestee execution

against any money due or to become due within one year after the issuance of such execution to the judgment debtor as salary or wages arising out of any private employment. If satisfactory proof shall be made, by affidavit or otherwise, of such facts and the fact that the amount due or to become due as salary or wages after the deduction of all state and federal taxes exceeds in any week ~~thirty~~ fifty times the federal minimum hourly wage then in effect, the court, if not a court of record, or if a court of record the clerk thereof, shall issue a suggestee execution against the salary or wages of the judgment debtor and upon presentation of such execution by the officer to whom delivered for collection to the person or persons from which such salary or wages are due and owing or thereafter may become due and owing to the judgment debtor, the execution and the expenses thereof shall become a lien and continuing levy upon the salary or wages due or to become due to the judgment debtor within one year after the issuance of the same, unless sooner vacated or modified as hereinafter provided, to an amount equal to twenty percent thereof and no more, but in no event shall the payments in satisfaction of such an execution reduce the amount payable to the judgment debtor to an amount per week that is less than ~~thirty~~ fifty times the federal minimum hourly wage then in effect. Only one such execution shall be satisfied, at one time, except that in the event two or more such executions have been served and satisfaction of the one having priority is completed without exhausting the amount of the salary or wages then due and payable that is subject to suggestion under this article the balance of such amount shall be paid in satisfaction, in the order of their priority, of junior suggestee executions against such salary or wages theretofore served.

(b) The suggestee execution by the judgment creditor provided in this section shall include, to the extent possible, the present address, the last four digits of the Social Security number and date of birth of the judgment debtor, which information shall be made available for the purpose of properly identifying the judgment debtor whose salary or wages are being levied upon.

ARTICLE 8. EXEMPTIONS FROM LEVY.**§38-8-1. Exemptions of personal property.**

(a) Any individual residing in this state, or the dependent of such individual, may set apart and hold as exempt from execution or other process the following personal property:

(1) Such individual's interest, not to exceed \$5,000 in value, in one motor vehicle;

(2) Such individual's interest, not to exceed \$8,000 in aggregate value, in household goods, furniture, toys, animals, appliances, books and wearing apparel that are held primarily for the personal, family or household use of such individual;

(3) Such individual's aggregate interest, not to exceed \$3,000, in any implements, professional books or tools of such individual's trade;

(4) Such individual's funds on deposit in a federally insured financial institution, ~~wages or salary not to exceed the greater of: (i) \$1,100; or (ii) one hundred twenty-five percent of the amount of the annualized federal poverty level of such individual's household divided by the number of pay periods for such individual per year; and~~

(5) Funds on deposit in an individual retirement account (IRA), including a simplified employee pension (SEP), in the name of such individual: *Provided*, That the amount is exempt only to the extent it is not, or has not been, subject to an excise or other tax on excess contributions under Section 4973 or Section 4979 of the Internal Revenue Code of 1986, or both sections, or any successor provisions, regardless of whether the tax is or has been paid.

(b) Notwithstanding the foregoing, in no case may an individual residing in this state, or the dependent of such individual, exempt from execution or other process more than \$15,000 in the aggregate in

personal property listed in subdivisions (1), (2), (3) and (4), subsection (a) of this section.

(c) Wages or salary are automatically exempt from execution or other process but only to the extent set forth in section three, article five-a of this chapter. No person may file for an exemption of wages or salary pursuant to this section in an amount above that set forth in section three, article five-a of this chapter.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 474, Exempting DEP construction and reclamation contracts from review and approval; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 494, Creating Legislative Oversight Commission on Department of Transportation Accountability; on second reading, coming up in regular order, was read a second time.

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

“That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new article, designated §4-14-1, §4-14-2, §4-14-3, §4-14-4 and §4-14-5, all to read as follows:

**ARTICLE 14. LEGISLATIVE OVERSIGHT COMMISSION ON
DEPARTMENT OF TRANSPORTATION
ACCOUNTABILITY.**

§4-14-1. Findings, purpose and intent.

(a) The Legislature hereby finds and declares that:

(1) Investment in infrastructure is crucial to the well-being of West Virginians and West Virginia businesses;

(2) The state must spend funds wisely on infrastructure in order to get the best return on investment and must make long-term plans for investment;

(3) The federal government is an unpredictable and unreliable partner in providing consistent funding for infrastructure investment;

(4) The Legislature directed a Division of Highways performance and efficiency audit in 2015; and

(5) In order to maintain proper oversight to ensure that sufficient transportation planning is made, funds are spent wisely and efficiently, and the Department of Transportation is functioning appropriately, the Legislative Oversight Commission on Department of Transportation Accountability is hereby created.

(b) It is the intent of the Legislature that all actions taken pursuant to the provisions of this article by the Legislature and the Department of Transportation serve the following core set of principles:

(1) That all Department of Transportation infrastructure investments be coordinated to maximize efficiencies and minimize cost thereby addressing the needs of the citizens more effectively;

(2) That communication be facilitated among the various agencies within the Department of Transportation and between the department and the Legislature;

(3) That policy changes, not made by legislative rule, be discussed with the commission for purposes of coordinating those policies with stated goals;

(4) That programs or policies implemented in accordance with federal mandates be communicated to the commission;

(5) That in developing and implementing programs with private or federal grant moneys, the various agencies communicate their efforts to the commission to ensure and facilitate future state funding; and

(6) That any Department of Transportation agencies exempted from rule-making review by federal or state statutes advise the commission of program changes which may affect infrastructure investment in West Virginia.

§4-14-2. Definitions.

As used in this article:

(1) ‘Agency’ means each agency, authority, board, committee, commission or division of the Department of Transportation;

(2) ‘Commission’ means the Legislative Oversight Commission on Transportation Accountability, as created in section three of this article; and

(3) ‘Department’ means the Department of Transportation.

§4-14-3. Creation of a Legislative Oversight Commission on Department of Transportation Accountability.

(a) There is hereby created a joint commission of the Legislature known as the Legislative Oversight Commission on Department of Transportation Accountability. The commission shall be composed of seven members of the Senate appointed by the President of the Senate and seven members of the House of Delegates appointed by the Speaker of the House of Delegates. No more than four of the seven members appointed by the President of the Senate and the Speaker of the House of Delegates, respectively, may be members of the same political party. In addition, the President of the Senate and Speaker of the House of Delegates shall be ex officio nonvoting members of the commission. The co-chairs of the commission shall be the chair of the Senate Transportation and Infrastructure Committee and the chair of the House Roads and Transportation Committee. At least one of the

Senate appointees and at least one of the House of Delegates appointees shall be a member of the committee on finance of the Senate and House of Delegates, respectively. The members shall serve until their successors shall have been appointed as heretofore provided.

(b) Members of the commission shall receive such compensation and expenses as provided in article two-a, chapter four of this code. Such expenses and all other expenses including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel shall be paid from an appropriation to be made expressly for the Legislative Oversight Commission on Department of Transportation Accountability: *Provided*, That if no such appropriation be made, such expenses shall be paid from the appropriation under Fund No. 0175 for Joint Expenses created pursuant to the provisions of said chapter: *Provided, however*, That no expense of any kind payable under the account for joint expenses shall be incurred unless first approved by the Joint Committee on Government and Finance.

(c) The commission shall meet at any time both during sessions of the Legislature and in the interim or as often as may be necessary.

(d) The President of the Senate and Speaker of the House of Delegates shall assign such staff as may be deemed necessary to aid the commission in carrying out the provisions of this article.

§4-14-4. Powers and duties of commission.

(a) The powers, duties and responsibilities of the commission include the following:

(1) Make a continuing investigation, study and review of the practices, policies and procedures of the department;

(2) Make a continuing investigation, study and review of all matters related to transportation policy in the state;

(3) Review long-term plans by the various agencies of the Department of Transportation and how they impact the citizens of West Virginia;

(4) Conduct studies on:

(A) The amount of state, federal and other funds expended in infrastructure investment in the state and the plan for future funds;

(B) The costs associated with failure to invest in the infrastructure of this state to citizens and businesses;

(C) The extent to which the state is maximizing available federal programs and other moneys in providing transportation investment to the citizens of this state;

(D) The operation of the Department of Transportation as a whole or its individual agencies; and

(E) The roles of the public, private and private nonprofit sectors in collaborating for improved infrastructure investment;

(5) Review and study the funding mechanisms for the State Road Fund and review any plans to adjust funding to ensure the necessary investment is made;

(6) Review and study the feasibility and financial impact upon the state of the long-term transportation plans in place in the department and its agencies; and

(7) Review and study the feasibility and financial impact upon the state of the establishment of alternative long-term transportation plans and alternative funding sources.

(b) The commission shall make annual reports to the Legislature regarding the results of all investigations, studies and reviews pursuant to the provisions of section five of this article.

(c) *Limited subpoena power: —*

(1) For purposes of carrying out its duties, the commission is hereby empowered and authorized to examine witnesses and to subpoena such persons and books, records, documents, papers or any other tangible things as it believes should be examined to make a complete investigation.

(2) All witnesses appearing before the commission under subpoena shall testify under oath or affirmation. Any member of the commission may administer oaths or affirmations to such witnesses.

(3) To compel the attendance of witnesses at such hearings or the production of any books, records, documents, papers or any other tangible thing, the commission is hereby empowered and authorized to issue subpoenas, signed by one of the co-chairs, in accordance with section five, article one, chapter four of this code. Such subpoenas shall be served by any person authorized by law to serve and execute legal process and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

(4) If any person subpoenaed to appear at any hearing refuses to appear or to answer inquiries there propounded, or fails or refuses to produce books, records, documents, papers or any other tangible thing within his or her control when the same are demanded, the commission shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and such court may compel obedience to the subpoena as though such subpoena had been issued by such court in the first instance.

§4-14-5. Legislative reports.

(a) The department shall report to the commission annually on or before December 31 of each year and provide detailed reports as directed by the commission. The commission shall describe to the department, in writing, the criteria to be addressed in each report. Reports required by this subsection may be provided in a format as directed by the commission.

(b) The commission shall submit annual reports to the Legislature, as required by the provisions of section four of this article, which such reports shall describe and evaluate in a concise manner:

(1) The major activities of the Department of Transportation and its agencies for the fiscal year immediately past, including important policy decisions reached on initiatives undertaken during that year, especially as such activities, decisions and initiatives relate to infrastructure investment, long-term planning for infrastructure investment, use of federal funds and any public-private partnerships for infrastructure investment.

(2) Other information considered by the commission to be important, including recommendations for statutory, fiscal or policy reforms and reasons for such recommendations.

(c) The reports may specify in what manner any practice, policy or procedure may or should be modified to satisfy the goal of efficient and effective delivery of infrastructure investment and to improve the quality of roads, bridges and other transportation infrastructure in the state.”

The bill was then ordered to third reading.

S. B. 515, Authorizing payment of certain claims against state; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 520, Allowing PEIA ability to recover benefits or claims obtained through fraud; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 524, Rewriting Board of Barbers and Cosmetologists article; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted on page one, section one, line two, after the word “hairstyling”, by striking out the word “makeup”.

On page one, section one, line six, after the word “hairstyling”, by striking out the words “makeup artist”.

On page six, section three, lines one hundred-thirteen and one hundred-fourteen, for both abbreviated references that read “CCTC”, by correcting the reference to read “CCTCE”.

On page six, section three, line one hundred-fourteen, after the word “Education”, by inserting the words “in conjunction”.

On page seven, section three, starting on line one hundred forty-two, by striking out the subsection “(ee)” in its entirety and by relettering the remaining subsections accordingly.

On page seven, section four, line one hundred fifty-seven after the word “barber”, by adding the words “or barber permanent wavist”.

On page seven, section four, line one hundred fifty-eight, by striking out subdivision “(3)” in its entirety and by renumbering the remaining subdivisions accordingly.

On page eight, section four, lines one hundred sixty-two and one hundred sixty-three, for both abbreviated references that read “CCTC”, by correcting the reference to read “CCTCE”.

On page eight, section four, line one hundred sixty-four, by striking out the words “One citizen member” and inserting in lieu thereof the words “Four citizen members representing the public appointed to be evenly distributed from among the congressional districts: *Provided*, That no more than two shall be from the same congressional district” and a semicolon.

On page eleven, section five, line sixty-eight, by striking out the period and inserting in lieu thereof a semi-colon and the following proviso “*Provided*, That the licensee shall display their license for the duration of the participation of such licensee in any temporary event” and a period.

On page twelve, section eight, lines nine and ten, for both abbreviated references that read “CCTC”, by correcting the reference to read “CCTCE”.

On page fourteen, section eight-b, line two, by striking out the word “areas” and inserting in lieu thereof the word “area”.

On page fourteen, section eight-b, starting on line seventeen, by striking out subdivision “(2)” in its entirety.

On motion of Delegate Fleischauer, the bill was amended on page eleven, section five, lines sixty-one through sixty-five, by striking out everything up to and including the words “under the code” and the period, and inserting in lieu thereof, the following:

“(d) Notwithstanding any other provision of this code, the board may permit a certificate holder or licensee to perform acts of public service, including practicing his or her licensed craft at temporary, off-site events in connection with, but not limited to, fairs, carnivals, fund-raisers, and pageants if the off-site event is for the benefit of a nonprofit entity; The certificate holder or licensee is compliant with all other prescribed requirements and rules under this code, including requirements relating to supervision; and the board has been notified in advance of the date, time, and location of the event. The board may issue rules, including emergency rules, for what constitutes public service and the amount of public service that students may perform.”

And,

On page seventeen, section eleven, lines four and five, for both abbreviated references that read “CCTC”, by correcting the reference to read “CCTCE”.

The bill was then ordered to third reading.

S. B. 552, Eliminating requirement sheriff pay jury costs to State Treasury; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section one, line four, following the word “of”, by inserting the words “present or new”.

On page one, section one, line five, by striking the word “use” and inserting in lieu thereof the word “uses”.

And,

On page one, section one, line ten, by adding thereto a new subsection to be read as follows:

“(e) If a municipality fails in its attempt to annex an unincorporated territory, that municipality shall not be permitted to attempt an additional annexation of that same unincorporated territory, or any part thereof, for a period of three years.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 575, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 581, Eliminating sunset provision terminating pilot domestic violence court program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 592, Relating to pipeline safety; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 622, Composition of PEIA Finance Board; on second reading, coming up in regular order, was read a second time.

Delegates Sponaugle, Caputo, Boggs, Reynolds, Guthrie and Moye moved to amend the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §5-16-5 of the Code of West Virginia, 1931, as amended, be repealed, and that §5-16-4 of the code be amended and reenacted, all to read as follows:

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

**§5-16-4. Public Employees Insurance Agency Finance Board
terminated; powers and duties of Board transferred
to director.**

Effective July 1, 2016, the Public Employees Insurance Agency Finance Board is terminated and all duties of the Board are transferred to the Director.”

Delegate Guthrie was addressing the House when Delegate Moffatt arose to a point of order, regarding the content of the Gentlelady’s remarks.

To which point, the Speaker stated that the Gentlelady’s remarks were to the matter pending before the House.

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

The yeas and nays having been ordered, they were taken (**Roll No. 391**), and there were--yeas 46, nays 50, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Canterbury, Caputo, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hamilton, Hartman, Hicks, Hornbuckle, Lane, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Miller, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Sobonya, Sponaugle, Trecost and P. White.

Absent and Not Voting: Blair, Cadle, McCuskey and Walters.

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

The bill was then ordered to third reading.

S. B. 627, Permitting physician to decline prescribing controlled substance; on second reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

S. B. 648, Allowing local authorities permit flashing traffic signals during low traffic times; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 656, Creating Upper Kanawha Valley Resiliency and Revitalization Program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 678, Relating to ownership and use of conduit providing telephone service; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

Com. Sub. for S. B. 6, Requiring drug screening and testing of applicants for TANF program,

Com. Sub. for S. B. 43, Clarifying means of posting to prohibit hunting or trespassing,

Com. Sub. for S. B. 195, Authorizing DHHR to promulgate legislative rules,

Com. Sub. for S. B. 326, Repeal and recodify law relating to contributing to delinquency of minor child,

Com. Sub. for S. B. 330, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium,

S. B. 333, Taking and registering of wildlife,

Com. Sub. for S. B. 338, Compiling and maintaining Central State Mental Health Registry,

S. B. 416, Allowing terminally ill patients access to investigational products,

Com. Sub. for S. B. 429, Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight,

S. B. 484, Relating to reemployment rights of military personnel,

And,

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities.

At 12:44 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2122, Making it illegal for first responders to photograph a corpse; Jonathan's Law.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendment:

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-8-30, to read as follows:

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY
AND DECENCY.**

**§61-8-30. Photography of a corpse or person being provided
medical care or assistance; prohibitions; exceptions;
Jonathon's Law.**

(a) As used in this section:

(1) ‘Disclose’ means to sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer or otherwise make available or make known to any third party.

(2) 'First responder' means law-enforcement officers, firefighters, emergency medical services personnel and other similar individuals authorized to respond to calls for public safety services or emergency medical assistance.

(b)(1) A first responder who is or present at a motor vehicle accident or other emergency situation for the purpose of providing public safety services or medical care or assistance shall not photograph, film, videotape, record or otherwise reproduce in any manner the image of a human corpse or a person being provided medical care or assistance, except for a legitimate law-enforcement purpose, public safety purpose, health care purpose, insurance purpose, legal investigation or legal proceeding involving an injured or deceased person or pursuant to a court order.

(2) A first responder shall not knowingly disclose any photograph, film, videotape, record or other reproduction of the image of a human corpse or a person being provided medical care or assistance at the scene of a motor vehicle accident or other emergency situation without prior written consent of the injured person, the person's next-of-kin if the injured person cannot provide consent, or personal representative under law of a deceased person, unless that disclosure is for a legitimate law enforcement purpose, public safety purpose, health care purpose, insurance purpose, legal investigation or legal proceeding involving an injured or deceased person or pursuant to a court order.

(3) Any person who violates subdivision (1) or (2) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for twenty-four hours and shall be fined not less than \$100 nor more than \$750. For a third or subsequent offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four hours nor more than six months and shall be fined not less than \$1,000 nor more than \$5,000.

(c) This section shall be known as 'Jonathon's Law'."

And,

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

Com. Sub. for H. B. 2122 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-30, relating to making it illegal for first responders to photograph, film, videotape, record or otherwise reproduce in any manner the image of a human corpse or person being provided medical care or assistance except for enumerated purposes; defining terms; creating a criminal offense for first responders to photograph, film, videotape, record or otherwise reproduce in any manner the image of a human corpse or person being provided public safety services, medical care or assistance unless it is for a legitimate purpose associated with his or her employment; creating a criminal offense for first responders to knowingly disclose any photograph, film, videotape, record or other reproduction of the image of a human corpse or person being provided public safety services, medical care or assistance unless disclosure is for a legitimate cause associated with his or her employment; providing for exceptions to the criminal offenses; providing for criminal penalties; providing for enhanced penalties for subsequent offenses; and designating provision as 'Jonathan's Law'."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 392**), and there were--yeas 89, nays none, absent and not voting 11, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell, Blair, Boggs, Byrd, Cadle, Deem, McCuskey, E. Nelson, J. Nelson, Skinner and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2122) passed.

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

A message from the Senate, by

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

H. B. 2796, Providing paid leave for certain state officers and employees during a declared state of emergency.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendment was reported by the Clerk:

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

“That §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of the Code of West Virginia, 1931, as amended, be repealed; that said code be amended by adding a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12, §29-3E-13 and §29-3E-14; and that §61-3E-1 and §61-3E-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3E. FIREWORKS SAFETY.

§29-3E-1. Unlawful acts.

It is unlawful for a person to manufacture, wholesale, distribute, import, sell or store for the purpose of resale, consumer fireworks, sparkling devices, novelties or toy caps without a license, registration, certificate or permit from the State Fire Marshal.

§29-3E-2. Definitions.

As used in this article:

(1) ‘Agricultural and wildlife fireworks’ means fireworks devices distributed to farmers, ranchers and growers through a wildlife management program administered by the United States Department of the Interior or the Division of Natural Resources of this state;

(2) ‘Amusement park’ means any person or organization which holds a permit for the operation of an amusement ride or amusement attraction under article ten, chapter twenty-one of this code;

(3) ‘APA Standard 87-1’ means the APA Standard 87-1 published by the American Pyrotechnics Association, as amended, and incorporated by reference into Title 49 of the Code of Federal Regulations;

(4) ‘Articles pyrotechnic’ means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 C.F.R. §172.101 (2014);

(5) ‘Consumer fireworks’ means small fireworks devices that are designed to produce visible effects by combustion that are required to comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 C.F.R. Parts 1500 and 1507 (2014), and that are

listed in APA Standard 87-1. Consumer fireworks do not include sparkling devices, novelties, toy caps or model rockets;

(6) ‘Consumer fireworks certificate’ means a certificate issued under section five of this article;

(7) ‘Display fireworks’ means large fireworks to be used solely by professional pyro-technicians licensed by the State Fire Marshal and designed primarily to produce visible or audible effects by combustion, deflagration or detonation and includes, but is not limited to, salutes containing more than two grains (one hundred thirty milligrams) of explosive materials, aerial shells containing more than forty grams of pyrotechnic compositions and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks and are classified as fireworks UN0333, UN0334, or UN0335 under 49 C.F.R. §172.101 (2014);

(8) ‘Distributor’ means a person who sells fireworks to wholesalers and retailers for resale;

(9) ‘Division 1.3 explosive’ means that term as defined in 49 C.F.R. §173.50 (2014);

(10) ‘Division 1.4 explosive’ means that term as defined in 49 C.F.R. §173.50 (2014);

(11) ‘Explosive composition’ means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited;

(12) ‘Fire Marshal’ means the State Fire Marshal;

(13) ‘Firework’ or ‘fireworks’ means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks include consumer fireworks, display fireworks and special effects. Fireworks does not include sparkling devices, novelties, toy caps or model rockets;

(14) ‘Interstate wholesaler’ means a person who is engaged in interstate commerce selling fireworks;

(15) ‘Model rocket’ means that term as defined in National Fire Protection Association Standard 1122, ‘Code for Model Rocketry’;

(16) ‘New explosive’ means that term as defined in 49 C.F.R. §173.56 (2014);

(17) ‘NFPA 1123’ means National Fire Protection Association Standard 1123, ‘Code for Fireworks Display;’

(18) ‘NFPA 1124’ means National Fire Protection Association Standard 1124, ‘Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles’, 2006 Edition;

(19) ‘NFPA 1126’ means National Fire Protection Association Standard 1126, ‘Standard for the Use of Pyrotechnics Before a Proximate Audience’;

(20) ‘Novelties’ means that term as defined under APA standard 87-1, section 3.2; but shall not include toy pistols, toy caps, toy canes, toy guns or other similar devices;

(21) ‘Permanent’ means that term as defined in NFPA 1124;

(22) ‘Person’ means an individual or the responsible person for an association, an organization, a partnership, a limited partnership, a limited liability company, a corporation or any other group or combination acting as a unit;

(23) ‘Public display of fireworks’ means a public entertainment feature that is advertised to the general public or is on public property that includes the display or discharge of fireworks;

(24) ‘Pyrotechnic composition’ means a mixture of chemicals that produces a visible or audible effect by combustion rather than

deflagration or detonation. A pyrotechnic composition will not explode upon ignition unless severely confined;

(25) ‘Retailer’ means a person who purchases consumer fireworks for resale to consumers;

(26) ‘Sparkling devices’ means ‘ground or handheld sparkling devices’ as that phrase is defined under APA 87-1, sections 3.1.1 and 3.5;

(27) ‘Special effects’ means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment;

(28) ‘Temporary’ means that term as defined in NFPA 1124;

(29) ‘Toy caps’ means that term as defined under APA 87-1, section 3.3; and

(30) ‘Wholesaler’ means any person who sells consumer fireworks to a retailer or any other person for resale and any person who sells articles of pyrotechnics, display fireworks, and special effects to a person licensed to possess and use those devices.

§29-3E-3. Production or transportation of fireworks.

A person may produce or transport a firework that is a new explosive and that is either a division 1.3 explosive or division 1.4 explosive if the person first meets the requirements of 49 C.F.R. §173.56(2)(j) (2014).

§29-3E-4. Sparkling devices and novelties registration required.

(a) A person may not sell sparkling devices or novelties without being registered with the State Fire Marshal.

(b) To be registered with the State Fire Marshal, the person shall:

(1) Submit an application to the State Fire Marshal;

(2) Provide a copy of his or her current business registration certificate or his or her certificate to sell sparklers and novelties issued by the State Tax Commissioner;

(3) Pay the required fee; and

(4) Provide other information as the State Fire Marshal may require by legislative rule.

(c) A registration is valid for the calendar year or any fraction thereof and expires on December 31 of each year.

(d) A registration is not transferable.

(e) A person shall post the registration in a conspicuous place at the location of the business.

(f) A separate registration is required for each location.

(g) The fee required in subdivision (3), subsection (b) of this section shall be \$15.00 per retail location.

(h) The fee assessed by this section shall be retained by the State Fire Marshal and expended to offset costs incurred in performing the duties imposed by the provisions of this code.

§29-3E-5. Consumer fireworks certificate required.

(a) A retailer may not sell consumer fireworks unless the retailer is certified under this article.

(b) To be certified to sell consumer fireworks a retailer shall:

(1) Submit an application to the State Fire Marshal;

(2) Submit with the application a copy of his or her current business registration certificate;

(3) Pay a fee of \$500.00 for each temporary retail sales location and \$1000.00 for each permanent retail sales location to the State Fire Marshal;

(4) Provide the State Fire Marshal proof that the retailer maintains at all times public liability and product liability insurance with minimum coverage limits of \$1 million dollars to cover losses, damages or injuries that might result from selling consumer fireworks; and

(5) Provide other information as the State Fire Marshal may require by legislative rule.

(c) A consumer fireworks certificate is valid from April 1 through March 31 of the next calendar year.

(d) A consumer fireworks certificate is not transferable.

(e) A retailer shall post the certificate in a conspicuous place at the location of the business.

(f) A separate certificate is required for each location of the business.

(g) A certificate holder may also sell sparkling devices and novelties at the same location without additionally obtaining a sparkling devices and novelties registration.

(h) A retailer who sells consumer fireworks shall comply with the regulations provided in NFPA 1124.

(i) A retailer who sells consumer fireworks shall comply with all regulations provided in NFPA 1124. The State Fire Marshal may by legislative rule, promulgate rules to supplement those rules established in NFPA 1124.

(j) A retailer shall sell the consumer fireworks only from a permanent building or structure that meets the specifications in NFPA 1124 or a temporary facility or structure that meets the specifications of NFPA 1124.7.3.5.

(k) Any fees collected pursuant to this section shall be deposited in the State Fire Marshal Fees Fund established by the provisions of section twelve-b, article three, chapter twenty-nine of this code.

(l) Notwithstanding any provision of this article to the contrary, no retailer may offer consumer fireworks for sale before June 1, 2016.

§29-3E-6. Required permit for public fireworks display.

(a) Any municipality, county, fair association, amusement park or other organization shall have a permit to present a public display of fireworks from the State Fire Marshal.

(b) To receive a permit, a municipality, fair association, amusement park, or other organization shall:

(1) Submit an application to the State Fire Marshal;

(2) Pay the required fee not to exceed \$50.00;

(3) Furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of the person or an employee thereof, in the amount, character and form as the State Fire Marshal determines to be necessary for the protection of the public; and

(4) Provide any other information as the State Fire Marshal may require by legislative rule.

(c) The State Fire Marshal shall require the municipality, county, fair association, amusement park and other organizations to give written notice to the local police and fire authorities at least five days prior to the display for which the permit is sought.

(d) A permit is not transferable.

(e) The display shall be operated by a competent operator licensed or certified as to competency by the State Fire Marshal and shall be of such composition, character, and so located, discharged or fired so as to be safe in the opinion of the chief of the fire department serving the community or area where such display is being held.

(f) The permittee shall require a bond from the licensee in a sum not less than \$1,000 conditioned on compliance with the provisions of this article and the rules of the State Fire Marshal except where the licensee is an insured government entity.

(g) Any fees collected pursuant to this section shall be deposited in the State Fire Marshal Fees Fund established by the provisions of section twelve-b, article three, chapter twenty-nine of this code.

§29-3E-7. Fireworks safety fee; administration; tax crimes; collections; remittances; deposits; distributions; rules.

(a) In addition to the sales tax, a fireworks safety fee of twelve percent of all sales is levied on retail sales of consumer fireworks in this state. The fee shall be distributed pursuant to the provisions of this subsection. The fee computation under this subsection shall be carried to the third decimal place, and the fee rounded up to the next whole cent whenever the third decimal place is greater than four, and rounded down to the lower whole cent whenever the third decimal place is four or less.

The State Tax Commissioner shall disburse all proceeds of the fireworks safety fee into the state treasury each month in the following manner:

(1) Seventy-five percent shall be deposited into a special account in the State Treasury, designated the Veterans' Facility Support Fund established by the provisions of section eleven, article one, chapter nine-a for expenditure on veterans' programs.

(2) Twenty-five percent shall be deposited into a special account in the State Treasury, designated the Fire Protection Fund established in section thirty-three, article three, chapter thirty-three of this code and distributed in accordance with that section to each volunteer fire company or department on an equal share basis by the State Treasurer.

(b) A person who purchases consumer fireworks in a retail transaction shall pay to the retailer the amount of the fee levied by this section, which fee is added to and constitutes a part of the sale price, and is collectible by the retailer who shall account to the state for all fees paid by a purchaser. If the retailer fails to collect the fee, or fails to account to the state for the fees paid by a purchaser, then the retailer is liable for the payment of the fee to the state.

(c) A retailer shall remit to the State Tax Commissioner no later than thirty days after the end of each preceding month all moneys collected for such preceding month, pursuant to the requirements of this section, and shall report such collections on forms and in the manner prescribed by the State Tax Commissioner.

(d) All moneys so remitted, net of refunds and adjustments, shall be paid by the State Tax Commissioner into the funds specified in this section.

(e) Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth in article nine, chapter eleven of this code applies to the fees imposed pursuant to this article, with like effect as

if that act were applicable only to the fees imposed by this article and were set forth in extenso in this article.

(f) The State Tax Commissioner shall propose legislative rules and may promulgate such emergency rules as are necessary to implement the provisions of this article.

(g) Notwithstanding any other provision of this code to the contrary, the State Tax Commissioner may deduct and retain one percent from each payment into the General Revenue Fund, as provided in this section, for the benefit of his or her office for general tax administration, from which expenditures are permitted from collections without appropriation by the Legislature.

§29-3E-8. State Fire Marshal's Rule-making Authority.

(a) The State Fire Marshal may promulgate emergency rules and shall propose legislative rules for promulgation, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:

(1) Adopting by reference the most recent edition of APA Standard 87-1;

(2) Adopting by reference the most recent edition of NFPA 1123, Code for Fireworks Display;

(3) Adopting by reference NFPA 1124, code for the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles;

(4) Adopting by reference the most recent edition of NFPA 1126, standard for the use of pyrotechnics before a proximate audience;

(5) Procedures for the issuance and renewal of a registration, certificate and permit;

(6) A fee schedule;

(7) Establishing insurance or bond requirements;

(8) Establishing additional criteria for the granting of a registration, certificate, or permit under this article; and

(9) Registration of manufacturers, wholesalers and distributors.

§29-3E-9. Exemptions.

This article does not prohibit any of the following:

(1) The use of fireworks by railroads or other transportation agencies for signaling purposes or illumination;

(2) The use of agricultural and wildlife fireworks;

(3) The sale or use of blank cartridges for a theatrical performance, use by military organizations or signal or ceremonial purposes in athletics or sports; or

(4) The possession, sale or disposal of fireworks incidental to the public display of fireworks by wholesalers or other persons who have a permit to possess, store and sell explosives from the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice and the State Fire Marshal.

§29-3E-10. Local municipalities' regulation of consumer fireworks.

This article does not affect the authority of the governing body of a municipality to prohibit or regulate the use of consumer fireworks within its boundaries.

§29-3E-11. Violations of this article; penalties.

(a) A person may not intentionally ignite, discharge or use consumer fireworks on public or private property without the express permission of the owner to do so.

(b) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices within or throw the same from a motor vehicle or building.

(c) A person may not intentionally ignite or discharge any consumer fireworks or sparkling devices into or at a motor vehicle or building, or at any person or group of people.

(d) A person may not intentionally ignite or discharge any consumer fireworks or sparkling device while the person:

(1) Is under the influence of alcohol;

(2) Is under the influence of any controlled substance;

(3) Is under the influence of any other drug; or

(4) Is under the combined influence of alcohol and any controlled substance or any other drug.

(e) A person who is less than eighteen years of age may not purchase, nor offer for sale, consumer fireworks.

(f) The provisions of this section shall be effective June 1, 2016.

§29-3E-12. Miscellaneous offenses; penalties.

Any person who violates a provision of this article for which a penalty is not expressly set forth is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100.00 nor more than \$500.00. The provisions of this section shall be effective June 1, 2016.

§29-3E-13. Seizures by the State Fire Marshal; enforcement of law.

(a) The State Fire Marshal shall seize, take, remove and dispose of at public auction or destroy, or cause to be seized, taken or removed and disposed of at public auction, or destroyed at the expense of the owner, all stocks of fireworks or combustibles offered for sale, stored

or held in violation of this article or an emergency or legislative rule promulgated hereunder.

(b) The West Virginia State Police, deputy sheriffs, municipal police officers and other law-enforcement officers shall assist in the enforcement of this article.

§29-3E-14. Reporting requirements; duration of reporting requirements.

Annually, on or before January 15, 2017, 2018 and 2019:

(1) The State Treasurer shall submit to the President of the Senate and the Speaker of the House of Delegates a report detailing the amount of revenue received and deposited from the Fireworks Safety Fee into the Fire Safety Fund authorized by section seven of this article and the distribution of said funds;

(2) The Secretary of Veterans' Assistance shall supply the President of the Senate and Speaker of the House of Delegates with a report detailing the revenue received from the Fireworks Safety Fee and deposited in the Veterans' Facility Support Fund and the purposes for which the money was expended;

(3) The State Tax Commissioner shall provide to the President of the Senate and Speaker of the House of Delegates a report detailing the revenue received from the sales tax received from the sale of fireworks authorized by the provisions of the article and revenue received from the Fireworks Safety Fee authorized by section seven of this article; and

(4) The State Fire Marshall shall submit to the President of the Senate and Speaker of the House of Delegates a report detailing the amounts of revenue received from the registration fees imposed pursuant to the provisions of section five of this article, the purposes for which the fees were expended and the adequacy of the fees received in relation to the duties required of the office.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**ARTICLE 3E. OFFENSES INVOLVING EXPLOSIVES.****§61-3E-1. Definitions.**

As used in this article, unless the context otherwise requires:

(a) ‘Destructive device’ means any bomb, grenade, mine, rocket, missile, pipebomb or similar device containing an explosive, incendiary, explosive gas or expanding gas which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts, either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled.

‘Destructive device’ does not include a firearm as such is defined in section two, article seven of this chapter, or sparkling devices, novelties, toy caps, model rockets and their components ~~twenty-three, article three, chapter twenty-nine of this code~~ or fireworks as these terms are defined in section two, article three-e, chapter twenty-nine of this code, or high power rockets and their components, as defined in this section.

(b) ‘Explosive material’ means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packaging that an ignition by fire, by friction, by concussion, by percussion, by detonator or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, powders for blasting, high or low explosives, blasting materials, blasting agents, blasting emulsions, blasting fuses other than electric circuit breakers, detonators, blasting caps and other detonating agents and black or smokeless powders not manufactured or used for lawful sporting purposes. ~~or fireworks defined in section twenty-three, article three, chapter twenty-nine of this code which are not used in violation of this~~

~~article.~~ Also included are all explosive materials listed annually by the office of the State Fire Marshal and published in the State Register, said publication being hereby mandated.

(c) 'High power rocket' means the term as defined in National Fire Protection Association Standard 1127, 'Code for High Power Rocketry.'

~~(c)~~ (d) 'Hoax bomb' means any device or object that by its design, construction, content or characteristics appears to be, or is represented to be or to contain a destructive device, explosive material or incendiary device as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a destructive device, explosive material or incendiary device.

~~(d)~~ (e) 'Incendiary device' means a container containing gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material: *Provided*, That no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be an incendiary device.

~~(e)~~ (f) 'Legal authority' means that right as expressly stated by statute or law.

(g) 'Model rocket' means the term as defined in National Fire Protection Association Standard 1122, 'Code for Model Rocketry.'

~~(f)~~ (h) 'Person' ~~shall mean~~ means an individual, corporation, company, association, firm, partnership, society or joint stock company.

~~(g)~~ (i) 'Storage magazine' is defined to mean any building or structure, other than an explosives manufacturing building, approved by the legal authority for the storage of explosive materials.

§61-3E-11. Exemptions.

(a) Unless specifically prohibited by any provision of this code or the laws of the United States, nothing in this article ~~shall prohibit~~ prohibits the authorized manufacture, sale, transportation, distribution, use or possession of any explosive material by any person holding a permit for such issued by the office of the State Fire Marshal. Any person performing a lawful activity pursuant to or regulated by the terms of a permit issued by the Division of Environmental Protection, or any office thereof, ~~shall be~~ is exempt from the provisions of this article.

(b) Unless specifically prohibited by any other provision of this code or the laws of the United States, nothing in this section ~~shall prohibit~~ prohibits the authorized manufacture, transportation, distribution, use or possession of any explosive, destructive device or incendiary device by a member of the armed forces or law-enforcement officers whenever such persons are acting lawfully and in the line of duty; nor shall it prohibit the manufacture, transportation, distribution, use or possession of any explosive material, destructive device or incendiary device to be used solely for lawful scientific research or lawful educational purposes. Any person engaged in otherwise lawful blasting activities failing to obtain a permit or in possession of an expired permit issued by the office of the ~~state fire marshal~~ State Fire Marshal ~~shall not be construed to be~~ is not in violation of the article.

(c) Nothing contained in this article applies to sparkling devices or novelties or to the sale, purchase, possession, use, transportation or storage of fireworks as regulated in article three-e, chapter twenty-nine of this code.”

And,

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

Com. Sub. for H. B. 2852 — “A Bill to repeal §29-3-23, §29-3-24, §29-3-25 and §29-3-26 of the Code of West Virginia, 1931,

as amended; to amend said code by adding thereto a new article, designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8, §29-3E-9, §29-3E-10, §29-3E-11, §29-3E-12, §29-3E-13 and §29-3E-14; and to amend and reenact §61-3E-1 and §61-3E-11 of said code, all relating to the regulation of fireworks generally; relocating certain existing provisions relating to sparkling devices, novelties and toy guns, including penalties for certain violations; raising funds for veterans' assistance and volunteer fire departments; authorizing sale of consumer fireworks on and after June 1, 2016; defining 'consumer fireworks'; establishing regulatory framework for sale of fireworks; defining terms; requiring certificate; establishing fees; requiring permit; dedicating certain fees to Veterans Facility Support Fund and Fire Protection Fund; establishing rule-making authority; creating criminal violations related to fireworks; penalties; enforcement; defining terms; exemptions; reporting requirements; and establishing internal effective dates for certain provisions."

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendment with further amendment, as follows:

On page nine of the Senate amendment, section seven, beginning on line thirty-three, by striking out subsection (g) in its entirety.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 393**), and there were--yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Byrd, Cadle, Deem, McCuskey, J. Nelson, Skinner and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2852) passed.

Still being in possession of the Clerk, the bill was taken up for further consideration.

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

On this question, the yeas and nays were taken (**Roll No. 394**), and there were--yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Byrd, Cadle, Deem, McCuskey, J. Nelson, Skinner, Trecoast and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2852) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 4157, Supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 4159, Making a supplementary appropriation to the Public Services Commission – Motor Carrier Division.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

H. B. 4160, Making a supplementary appropriation to the Department of Revenue, Tax Division.

A message from the Senate, by

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

Com. Sub. for H. B. 4279, Relating to disposition of seized firearms.

A message from the Senate, by

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

H. B. 4324, Authorizing information sharing by Workforce West Virginia.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4330, Relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegate amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for H. B. 4505, Allowing powerball winners to remain anonymous.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for H. B. 4505 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to allowing powerball, mega millions and hot lotto ticket winners to remain anonymous; providing procedures by which such winners can request anonymity; and providing for an exemption under the Freedom of Information Act for powerball, mega millions and hot lotto ticket winner information.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 395**), and there were--yeas 88, nays 3, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Marcum, Pushkin and Rowe.

Absent and Not Voting: Blair, Byrd, Cadle, Deem, McCuskey, J. Nelson, Skinner, Trecost and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4505) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4540, Removing prohibition of disposal of certain electronics in landfills.

A message from the Senate, by

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

H. B. 4644, Relating to jury fees.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, to take effect from passage, a bill of the House of Delegates as follows:

H. B. 4654, Relating to the Executive Secretary of the Board of Registered Professional Nurses.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

H. B. 4654 — “A Bill to amend and reenact §30-7-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Board of Examiners for Registered Professional Nurses; and eliminating required qualifications of the executive secretary to the board.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 396**), and there were--yeas 89, nays 2, absent and not voting 9, with the yeas and absent and not voting being as follows:

Nays: Marcum and McGeehan.

Absent and Not Voting: Blair, Byrd, Cadle, Deem, McCuskey, J. Nelson, Skinner, Trecost and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4654) passed.

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

On this question, the yeas and nays were taken (**Roll No. 397**), and there were--yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Byrd, Cadle, Deem, McCuskey, J. Nelson, Skinner and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4654) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 4674, Relating to motor vehicle back-up lamps.

A message from the Senate, by

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

H. B. 4735, Relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 29, Tolling statute of limitations in certain cases.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with title amendment, and the passage, as amended, of

Com. Sub. for S. B. 68, Disallowing Health Care Authority to conduct rate review and set rates for hospitals.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 68 — “A Bill to repeal §16-29B-19, §16-29B-19a, §16-29B-20, §16-29B-20a, §16-29B-21 and §16-29B-21a of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-29B-1, §16-29B-10 and §16-29B-27 of said code, all relating to the powers of the Health Care Authority; eliminating authority of the Health Care Authority to conduct rate review; eliminating authority of the Health Care Authority to set rates for hospitals; and eliminating antiquated studies to be conducted by the Health Care Authority.”

The question being on passage of the bill as amended by the House and further amended by the Senate, the yeas and nays were taken (**Roll No. 398**), and there were--yeas 65, nays 25, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Moye, Perdue, Perry, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Sponaule and P. White.

Absent and Not Voting: Blair, Byrd, Cadle, Deem, Gearheart, Hamilton, McCuskey, J. Nelson, Skinner and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 68) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 102, Conforming to federal Law-Enforcement Officers Safety Act,

S. B. 271, Conforming definition of attest services to Uniform Accountancy Act,

And,

Com. Sub. for S. B. 274, Relating to increasing civil jurisdictional amount in magistrate courts.

A message from the Senate, by

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

S. B. 427 — “A Bill supplementing and amending by decreasing an appropriation and making a supplementary appropriation from the balance of moneys remaining as an unappropriated balance from the State Fund, State Excess Lottery Revenue Fund, to the Department of Revenue, Lottery Commission – Distributions to Statutory Funds and Purposes, fund 7213, fiscal year 2016, organization 0705, by supplementing and amending the appropriations for the fiscal year ending June 30, 2016”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

S. B. 437, Updating and clarifying code relating to rules governing mixed martial arts.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

S. B. 437 — “A Bill to amend and reenact §29-5A-1, §29-5A-15 and §29-5A-24 of the Code of West Virginia, 1931, as amended, all relating to regulation of events by State Athletic Commission; renaming the State Athletic Commission to the State Ring Sports Commission; authorizing delegation of commission authority to approve certain event changes; authorizing the commission to propose emergency legislative rules relating to creation of a promoter’s fee; requiring the promoter’s fee be placed into a fund for the sole purpose of hiring an administrative secretary; eliminating requirements for certain bonds; and providing for rules to govern amateur mixed martial arts.”

Delegate Kelly requested to be excused from voting on S. B. 437 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 399**), and there were--yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Byrd, Cadle, Deem, McCuskey, J. Nelson, Skinner and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 437) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 483, Marshall County LSIC waiver.

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

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 259, Amending Unfair Trade Practices Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 202, Authorizing Department of Commerce promulgate legislative rules,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 614, Conforming statute with court interpretation by replacing “unconscionable” with “fraudulent” when referring to conduct,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 599, Relating generally to Uniform Unclaimed Property Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 493, Allowing creation of self-settled spendthrift trusts,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 613, Defining total capital for purposes of calculating state-chartered bank's lending limit,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 468, Allowing lender charge and receive interest on rescindable loan during rescission period,

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

On motions for leave, resolutions were introduced (Originating in the Committee on Education and reported with the recommendation that they each be adopted), which were read by their titles, as follows:

By Delegates Ambler, Duke, D. Evans, Hamrick, Kelly, Rohrbach, Romine, Rowan, Wagner, Blackwell, Campbell, Hicks, Hornbuckle, Moye, Perdue, Perry, Rodighiero, Trecost and Espinosa:

H. C. R. 101 — “Requesting the Joint Committee on Government and Finance to conduct an interim study on the areas remaining from the January 3, 2012, Efficiency Audit of West Virginia’s Primary and Secondary Education System conducted by Public Works, LLC, that require legislative action to accomplish.”

Whereas, The January 3, 2012, Efficiency Audit of West Virginia’s Primary and Secondary Education System conducted by Public Works, LLC, included eighty-two recommendations intended to help the state achieve two goals: (1) Producing the best possible outcomes for its students; and (2) Receiving the highest return on the educational dollars it spends; and

Whereas, A representative from Public Works, LLC, who was invited to present a status report on the implementation of these recommendations to the Joint Standing Education Committee during the 2015 interim meetings, reported many areas in which action on implementation was completed through a combination of legislative and executive action, areas in which there was progress toward implementation, areas in which there was not total agreement with that recommendation, and other recommendations remaining in which implementation required code change/legislative action; and

Whereas, The recommendations remaining which require Code change/legislative action include recommendations intended help the state achieve goals for both producing the best outcomes for students and/or receiving the highest return for dollars spent; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct an interim study on the areas remaining from the January 3, 2012, Efficiency Audit of West Virginia's Primary and Secondary Education System, that require Code change/legislative action to accomplish; and, be it

Further Resolved, That a report of the findings, conclusions and recommendations of the study, together with drafts of any legislation necessary to effectuate the recommendations be reported to the Legislature at its 2017 Regular Session; and, be it

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

By Delegates Kurcaba, Ellington, Hicks, Romine, Trecoast, Kelly, Hamrick, Espinosa, Rodighiero and Campbell:

H. C. R. 102 — "Requesting the Joint Committee on Government and Finance to conduct an interim study on the enrollment of students solely for participation in extracurricular activities."

Whereas, The public schools are tax payer supported educational programs and facilities that include curricular and extracurricular activities valuable for providing a thorough and efficient education for all students; and

Whereas, The public schools are open to all children of compulsory school age in the state and all children are entitled to a thorough and efficient education; and

Whereas, Some taxpayers choose options other than the public schools for the education of their children as they may do through lawful process and bear the additional expense; and

Whereas, Such a choice does not diminish the rights of these children to a thorough and efficient education and they may receive services or be enrolled from time to time in some academic courses offered by the public schools; and

Whereas, The extracurricular activities that are available to students as a part of the public schools may require certain conditions to be met as a precedent to participation but, absent a compelling state interest, these conditions should not be such as to exclude an entire class or classes of children otherwise entitled to the full benefits of a thorough and efficient education from participating if they choose to do so; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct an interim study on the enrollment of students solely for participation in extracurricular activities; and, be it

Further Resolved, That the study shall include an opportunity for input from the Home School Legal Defense Association, the Christian Home Educators of West Virginia, the West Virginia Secondary School Activities Commission, the Coaches Association, the Principals Association, the West Virginia School Board Association, the Superintendents Association, the Athletic Directors, the AFT-WV, the WVEA and such others who may have an interest; and, be it

Further Resolved, That a report of the findings, conclusions and recommendations of the study, together with drafts of any legislation necessary to effectuate the recommendations be reported to the Legislature at its 2017 Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and draft necessary legislation are requested

to be paid from legislative appropriations to the Joint Committee on Government and Finance.

By Delegates Cooper, Ellington, D. Evans, Hamrick, Kelly, Kurcaba, Rowan, Campbell, Hicks, Moye, Rodighiero, Trecost and Espinosa:

H. C. R. 103 — “Requesting the Joint Committee on Government and Finance to conduct an interim study on the educational impact and budgetary and funding formula consequences of Education Savings Accounts.”

Whereas, Education is the key to citizens enjoying a productive, fulfilling life; and

Whereas, West Virginians cherish their children and strive to provide them with a bright future; and

Whereas, In 2015, 74 percent of West Virginia’s students were in the lower socio economic status; and

Whereas, The proficiency rate, an indicator of West Virginia students’ performance, clearly indicates that many students are not achieving at satisfactory levels; and

Whereas, It is in the state’s interest to explore all opportunities for improving educational outcomes; and

Whereas, Education Savings Accounts are the most flexible and effective means of school choice; and

Whereas, Education Savings Accounts significantly increase parental satisfaction with their child’s education; and

Whereas, Only through a truly competitive educational system can education consumers be empowered; and

Whereas, Twenty-nine states have enacted over 50 school choice programs; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct an interim study on the educational impact and budgetary and funding formula consequences of Education Savings Accounts; and, be it

Further Resolved, That a report of the findings, conclusions and recommendations of the study, together with drafts of any legislation necessary to effectuate the recommendations be reported to the Legislature at its 2017 Regular Session; and, be it

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

By Delegates Ambler, Duke, D. Evans, Hamrick, Kelly, Rohrbach, Romine, Rowan, Wagner, Ellington Campbell, Hicks, Hornbuckle, Moye, Perdue, Perry, Rodighiero, Cooper and Espinosa:

H. C. R. 104 — “Requesting that the Joint Committee on Government and Finance study the composition, qualifications, terms and duties of the State Board of Education, including the need for any constitutional amendments to clarify the scope of its authority.”

Whereas, Section one, article XII of the Constitution of the State of West Virginia imposes a duty upon the Legislature, as a separate but equal branch of government, to provide, by general law, for a thorough and efficient system of free schools; and

Whereas, Section two, article XII of the Constitution of the State of West Virginia vests the general supervision of the free schools with the West Virginia board of education; and

Whereas, Section two, article XII of the Constitution of the State of West Virginia requires the Legislature to prescribe by law the duties of the state board in the general supervision of free public schools; and

Whereas, The state board is not elected by the citizens of West Virginia; and

Whereas, The state board members serve nine year terms upon appointment by the Governor; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the composition, qualifications, terms and duties of the state board of education, including, but not limited to, how education in other states is administered at the state level; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And,

By Delegates Ambler, Duke, Ellington, D. Evans, Hamrick, Kurcaba, Rohrbach, Romine, Rowan, Wagner, Campbell, Hicks, Moye, Perry, Rodighiero, Trecoast and Espinosa:

H. C. R. 105 — “Requesting the Joint Committee on Government and Finance study the composition and terms of the School Building Authority.”

Whereas, West Virginia Code §18-9D-1, *et. seq.*, establishes the School Building Authority; and

Whereas, The School Building Authority provides financing for school building capital improvement projects; and

Whereas, The School Building Authority is comprised of eleven members, six of whom are citizen members appointed by the governor to serve three year staggered terms and three of whom are members of the state board of education who may only serve one three year term; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the composition and terms of the School Building Authority; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

The Speaker referred the resolutions (H. C. R. 101, H. C. R. 102, H. C. R. 103, H. C. R. 104 and H. C. R. 105) to the Committee on Rules.

Delegate McCuskey, 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 7th day of March, 2016, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 421), Terminating behavioral health severance and business privilege tax,

(**Com. Sub. for S. B. 582**), Providing refundable tax credit for motor fuel sold for use or consumed in railroad diesel locomotives,

And,

(**Com. Sub. for S. B. 594**), Requiring State Auditor consider for payment claim submitted by electronically generated invoice.

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

Your Committee on Finance has had under consideration:

S. B. 459, Requiring county board of education to pay tuition to Mountaineer Challenge Academy,

And,

Com. Sub. for S. B. 595, Relating to retirement credit for members of WV National Guard,

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

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

Your Committee on Finance has had under consideration:

S. B. 54, Altering how tax is collected on homeowners' associations,

S. B. 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program,

And,

S. B. 505, Exempting certain uses of field gas from motor fuel excise taxes,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 597, Relating generally to Health Care Authority,

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

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blair, Cadle and McCuskey.

Miscellaneous Business

Delegate E. Nelson noted that he was absent on Roll No. 392, and that had he been present, would have voted “Yea” thereon.

Delegate Hill filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4267.

At 5:50 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 8, 2016.

THURSDAY, MARCH 8, 2016

FIFTY-SIXTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, March 7, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 265, on Third Reading, House Calendar, to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 157, Authorizing Department of Revenue to promulgate legislative rules,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 567, Providing protection against property crimes committed against coal mines, railroads, utilities and other industrial facilities,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 107, Uniform Interstate Depositions and Discovery Act,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 504, Relating to confidentiality of juvenile records,

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

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

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

S. B. 431, Authorizing pharmacists and pharmacy interns dispense opioid antagonists,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 267, Modifying removal procedure for certain county, school district and municipal officers,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 686, Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction,

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

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

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 517, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner,

And,

S. B. 563, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members,

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

Resolutions Introduced

Delegates Rowan, Romine, D. Evans, Miller, Walters, Canterbury, Duke, Shaffer, Lynch, Moye, Campbell, Ambler, Border, Deem, Fast, Ferro, Hamilton, Hartman, Hill, Kelly, Longstreth, Moore, Overington, Perry, Pethtel, Phillips, Rohrbach, B. White and Zatezalo offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 99 — “Requesting the Joint Committee on Government and Finance to study and review current law, procedure and public

services intended to protect against senior citizen financial abuse and exploitation and to study the feasibility of developing and providing additional effective tools, resources and best practices to help protect senior citizens from financial abuse and exploitation.”

Whereas, Over sixteen percent of West Virginians are senior citizens sixty-five years of age or older and it has been projected that by 2035, the senior citizen population will constitute almost one fourth of the state’s total population; and

Whereas, Many seniors are dependent on the assistance of others for the administration of their property, income and financial assets and well-being and therefore are at a heightened risk for financial exploitation; and

Whereas, Financial abuse and exploitation has become an increasing topic of concern by law enforcement as well as public agencies and service providers serving seniors in the state; and

Whereas, West Virginia already has significant laws, procedures and public services in place intended to protect seniors from financial exploitation and abuse; however, it is becoming increasingly apparent that this problem persists and is perhaps increasing and that a comprehensive review of the protections provided by current laws, procedures and public services would be beneficial to address this problem; and

Whereas, Additional tools and resources need to be examined and explored by this state and the Legislature to better address the problem of elder financial abuse and exploitation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study and review current law, procedure and public services intended to protect against senior citizen financial abuse and exploitation and to study the feasibility of developing and providing

additional effective tools, resources and best practices to help protect senior citizens from financial abuse and exploitation; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2017, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

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

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

H. C. R. 100 — “Requesting the Commissioner of the Division of Highways to name bridge number 50-152-5.70 (50A112), at longitude 37.99842 and latitude -82.40667, locally known as the Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek, the “Curtis ‘Pap’ and Millie ‘Mammie’ Asbury Bridge.”

Whereas, Curtis Asbury was born on September 24, 1917, in Wayne, West Virginia, and his devoted wife Millie Ferguson was born on April 24, 1924, and this couple were married in 1939; and

Whereas, Curtis and Millie Asbury established, owned and operated Asbury's Grocery located at the entrance to Cabwaylingo Park Road for fifty-two years. The grocery store became a vital source for community members. For five generations, the store not only provided necessary food and other goods but also became a meeting place for community members to gather in the mornings and evenings to discuss everything from politics to family life. It was the bus stop where school children of all ages would go and be met with a smile, a hug, and a piece of fruit or candy; and

Whereas, Almost every person in the community of Dunlop, West Virginia, has been touched by Curtis and Millie's kindness and generosity. The love that they both had for our community was displayed by their hardworking, gentle, giving spirits. They were devoted to making our small community a better place to live by always extending a helping hand, providing jobs, caring for the elderly and encouraging and guiding the youth. They helped develop and organize our small community by creating local churches, directing Sunday school classes, and working to fulfill the needs of the entire community. They treated everyone as their own family and were lovingly referred to as everyone's "Mammie" and "Pap". Curtis and Millie Asbury have touched every family in this small community and they should be honored by having this bridge named to commemorate them; and

Whereas, This dedication would serve as an on-going reminder of Curtis and Millie's commitment to making our community a better place to live and to making our citizens better people; therefore, be it

Resolved by the Legislature of West Virginia:

That the Commissioner of the Division of Highways is hereby requested to name bridge number 50-152-5.70 (50A112), at longitude 37.99842 and latitude -82.40667, locally known as the Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek, the "Curtis 'Pap' and Millie 'Mammie' Asbury Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to create and erect signs at both ends of the bridge proclaiming the bridge the "Curtis 'Pap' and Millie 'Mammie' Asbury Bridge"; and, be it

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

Delegates Shott, Lane, Stansbury, Miley, Caputo, Pushkin, Campbell, P. Smith, Manchin, Weld, McCuskey, Hanshaw, Fleischauer and Overington offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 19 — “Recognizing the considerable contributions of drug courts to the State of West Virginia.”

Whereas, The first adult drug court was established in the Northern Panhandle in 2005 and the first Juvenile Drug Court was established in 1999 in Cabell County, ran for six years, and was re-established in 2007; and

Whereas, Rigorous evaluation and research has demonstrated that, where adult drug courts are implemented consistent with models and procedures developed based on objective studies, they significantly reduce recidivism and substance abuse among offenders who are high risk of reoffending due to substance abuse and dependency; and

Whereas, Adult drug courts that are properly implemented increase the likelihood of successful rehabilitation while simultaneously reducing the cost to the public below the historic costs of addressing these problems in the criminal justice system; and

Whereas, The goal of juvenile drug courts is to intervene early in the life of a young person to prevent future involvement of that young person in the court system; and

Whereas, Justices, circuit judges, family court judges, magistrates, and mental hygiene commissioners throughout West Virginia devote their time at no additional pay to establishing and operating drug and treatment courts, with the help of full-time, dedicated drug court probation officers; and

Whereas, Governor Earl Ray Tomblin’s consistent, influential support of the expansion of drug courts throughout the state, first as

Senate President and, subsequently, as Governor, has been a strategic part of the program's success; and

Whereas, In 2009, the West Virginia Legislature passed the West Virginia Drug Offender Accountability and Treatment Act (W.Va. Code §62-15-1, *et. seq.*), which codified adult drug courts in West Virginia, and which left the administration, control, and responsibility for drug courts, mental health courts, and other problem-solving courts within the purview of the Supreme Court of Appeals; and

Whereas, In 2011, the West Virginia Legislature passed the West Virginia Juvenile Drug Court Statute (W.Va. Code §49-5-2b), which codified juvenile drug courts in West Virginia, and which left the establishment of procedures and forms and the appointment of juvenile drug court judges within the purview of the Supreme Court of Appeals; and

Whereas, In 2013 the West Virginia Legislature passed the Justice Reinvestment Act (W.Va. Code §62-15-4(a)) which requires all judicial circuits to participate in an adult drug court or regional adult drug court program by July 1, 2016; and

Whereas, There currently are twenty-seven adult drug courts serving forty-five counties and seventeen juvenile drug courts serving twenty counties; and

Whereas, There are have been more than thirteen hundred drug court graduates and another six hundred and eighty West Virginia adults and youths are currently participating in the programs; therefore, be it

Resolved by the House of Delegates:

That adult and juvenile drug courts save lives, restore families, and are a prudent use of state resources; and, be it

Further Resolved, That the Legislature of West Virginia declares March 10, 2016, to be Drug Court Day in West Virginia.

Petitions

Delegate Pushkin presented a petition from over 700 residents of the State of West Virginia, urging the House of Delegates to place Senate Bill 411, The Second Chance for Employment Act, on the Special Calendar to allow reformed, working members of society the opportunity to work a job and provide for their families, to provide incentive for first time offenders to stay clean and out of trouble, and to also allow parents to provide for their children without relying on government assistance; to the Committee on Industry and Labor.

Motions

Delegate Pushkin submitted a written motion, as follows:

Mr. Speaker, As the “Creating Second Chance for Employment Act” provides a mechanism to help non-violent felons reenter the job market and become productive members of our state and would be a humane way of helping many struggling West Virginians get past the legacy of our horrible drug epidemic, and further because the State Senate reported out this bill by an unanimous, bi-partisan vote, reflecting that if considered, this measure would be supported by many members of the House, therefore Mr. Speaker, pursuant to Rule 82, I move that S. B. 411 be discharged from the House Committee on Industry and Labor.

Further, Mr. Speaker, I move the previous question on my motion.

And,

Mr. Speaker, I further move that if the prior Rule 82 motion prevails, that pursuant to Rule 82, that S. B. 411 be discharged from the Committee on the Judiciary and placed on the House Special calendar.

Delegate Cowles arose and moved to table the motions submitted by Delegate Pushkin.

Following inquiries of the Chair as to the posture of the motions, the Speaker stated to the members that the motion to table took precedence over the motion for the previous question.

The question before the House being the motion to table the motion to discharge Com. Sub. for S. B. 411, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 400**), and there were—yeas 54, nays 43, absent and not voting 3, with the yeas and absent and not voting being as follows:

Nays: Azinger, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Kelly, Longstreth, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost, Upson and P. White.

Absent and Not Voting: Flanigan, Kessinger and Lynch.

So, a majority of the members present and voting having voted in the affirmative, the motion to table the motion to discharge question prevailed.

Delegate Cowles was then recognized and asked and obtained unanimous consent to recall **S. B. 437**, Updating and clarifying code relating to rules governing mixed martial arts, from the Senate.

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

Special Calendar

Third Reading

Com. Sub. for S. B. 39, Regulating off-road motorcycles within Hatfield-McCoy Recreation Area; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 401**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ireland and McGeehan.

Absent and Not Voting: Caputo, Flanigan and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 39) passed.

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

Com. Sub. for S. B. 47, Rewriting licensing requirements for practice of medicine and surgery and podiatry; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 402**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 47) passed.

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

S. B. 94, Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program; ; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 403**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ihle and Kelly.

Absent and Not Voting: Flanigan and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 94) passed.

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

Com. Sub. for S. B. 104, Classifying Marshall University Forensic Science Center as a criminal justice agency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 404**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 104) passed.

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

Com. Sub. for S. B. 104 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-24c, relating to declaring the Forensic DNA Analysis Laboratory of the Marshall University Forensic Science Center to be engaged in administration of criminal justice as that term is defined in 28 C. F. R. 20.3(b); requiring Marshall University Forensic Science Center and the West Virginia State Police to confer as to available grants and similar possible funding sources and applications therefor; affording West Virginia State Police primacy of decision-making over Marshall University Forensic Science Center as to which entity may apply for certain grants; and directing West Virginia State Police and Marshall University Forensic Science Center to execute an agreement to ensure compliance with the section provisions.”

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

Com. Sub. for S. B. 265, Allowing library volunteers necessary access to user records; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Overington asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the consideration of such.

On motion of Delegate Overington, the bill was amended on page one, section twenty-two, lines five and six after the word “agreement”, by striking out the phrase “outlining the terms of this subsection” and inserting in lieu thereof “which shall prevent disclosure of circulation records, personal information, and similar records of any public library except to the extent allowed under this subsection”.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 405**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 265) passed.

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

Com. Sub. for S. B. 265 — “A Bill to amend and reenact §10-1-22 of the Code of West Virginia, 1931, as amended, relating to confidentiality of certain library records; clarifying that library staff, including employees and unpaid library volunteers, may have necessary access to user records; requiring outlining the terms of confidentiality in a written agreement; and requiring obtaining written permission from the library director of the library system wherein he or she will be working.”

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

S. B. 306, Permitting sale of county or district property online; on third reading, coming up in regular order, was read a third time.

Delegate Ireland requested to be excused from voting on the passage of S. B. 306 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 406**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum and Shaffer.

Absent and Not Voting: Flanigan and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 306) passed.

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

S. B. 306 — “A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to sale of county or district property; permitting property be sold either at an on-site public auction or by utilizing an Internet-based public auction service; and requiring notice of sale include notice of the time, terms, manner and place of sale or the Internet-based public auction service to be utilized.”

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

S. B. 323, Correcting statute subsection designations regarding trespassing on property; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 407**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 323) passed.

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

S. B. 329, Eliminating sunset provision for commission to study residential placement of children; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 408**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 329) passed.

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

S. B. 334, Identifying coyote as fur-bearing animal and woodchuck as game animal; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 409**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Lynch and Moore.

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 334) passed.

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

Com. Sub. for S. B. 343, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 410**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ihle and McGeehan.

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 343) passed.

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

Com. Sub. for S. B. 343 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §52-2-11, relating to grand juries generally; defining terms; authorizing prosecuting attorneys to designate law-enforcement officers or investigators as custodians of records, documents and other evidence subpoenaed, that has been received, reviewed and ratified by the grand jury; authorizing designated custodians conducting an investigation to keep, review and analyze records, items or other evidence and to otherwise use the subpoenaed materials for legitimate investigative purposes; allowing for successor custodians; requiring

custodians to execute disclosure statements to preserve grand jury secrecy; requiring the prosecuting attorney to file all disclosure statements, under seal, with the clerk of the circuit court; authorizing custodians to share subpoenaed materials with other law-enforcement officers and investigators for legitimate investigative purposes with the written authorization of the prosecuting attorney and that officer's or investigator's execution of a disclosure statement; and providing that a designated custodian may retain the record, item or other evidence in his or her possession, care, custody or control until the termination of the investigation or prosecution."

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

On this question, the yeas and nays were taken (**Roll No. 411**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ihle and McGeehan.

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 343) takes effect from its passage.

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

S. B. 346, Updating projects managed by Project Management Office; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 412**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 346) passed.

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

S. B. 349, Updating meaning of federal adjusted gross income; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 413**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 349) passed.

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

S. B. 349 — “A Bill to amend and reenact §11-21-9 and §11-21-71a of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Personal Income Tax; updating the meaning of federal taxable income and certain other terms used in West Virginia Personal Income Tax; changing certain due dates; and specifying effective dates.”

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

On this question, the yeas and nays were taken (**Roll No. 414**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 349) takes effect from its passage.

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

Com. Sub. for S. B. 400, Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 415**), and there were—yeas 63, nays 33, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Campbell, Caputo, Eldridge, Fast, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost, Upson and P. White.

Absent and Not Voting: Flanigan, Guthrie, Hamrick and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 400) passed.

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

S. B. 415, Lengthening maximum term of negotiable certificates of deposit municipal funds can hold; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 416**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 415) passed.

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

S. B. 426, Continuing Office of Coalfield Community Development; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 417**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Folk, Lynch and McGeehan.

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 426) passed.

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

S. B. 439, Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 418**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Flanigan, Guthrie, Hamilton and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 439) passed.

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

S. B. 461, Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 419**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Waxman.

Absent and Not Voting: Flanigan, Guthrie, Hamilton and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 461) passed.

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

S. B. 469, Clarifying what personal funds are exempt from levy following judgment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 420**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 469) passed.

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

S. B. 469 — “A Bill to amend and reenact §38-5A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §38-8-1 of said code, all relating to suggestions of salary and wages of persons engaged in private employment and exemptions from levy; increasing the amount of salary or wages that are protected from a suggestee execution from thirty times the federal minimum hourly wage then in effect to fifty times the federal minimum hourly wage then in effect; removing wages and salary from items subject to the one-time, \$15,000 exemption; providing that wages and salary are automatically exempted from levy execution up to a certain amount; and clarifying that wages and salary above that automatic exemption may not be exempted from levy.”

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

Com. Sub. for S. B. 474, Exempting DEP construction and reclamation contracts from review and approval; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 421**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Manchin.

Absent and Not Voting: Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 474) passed.

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

S. B. 494, Creating Legislative Oversight Commission on Department of Transportation Accountability; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 422**), and there were—yeas 84, nays 12, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Byrd, Faircloth, Fluharty, Folk, Hanshaw, Marcum, McGeehan, Pushkin, Reynolds, Storch, Walters and Weld.

Absent and Not Voting: Deem, Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 494) passed.

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

S. B. 494 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-14-1, §4-14-2, §4-14-3, §4-14-4 and §4-14-5, all relating to creating the Legislative Oversight Commission on Department of Transportation Accountability; setting forth findings, purpose and intent; defining terms; designating makeup and compensation of commission; authorizing meetings of the commission; stating powers and duties of commission; providing a limited subpoena power to the commission; and requiring certain reports.”

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

S. B. 515, Authorizing payment of certain claims against state; on third reading, coming up in regular order, was read a third time.

Delegate Eldridge requested to be excused from voting on the passage of S. B. 515 under the provisions of House Rule 49.

Speaker Pro Tempore Anderson in the Chair

The Speaker Pro Tempore replied that Delegate Eldridge did possibly exhibit direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of S. B. 515 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 423**), and there were—yeas 94, nays none, excused from voting 1, absent and not voting 5, with the excused from voting and absent and not voting being as follows:

Excused from Voting: Eldridge.

Absent and Not Voting: Deem, Flanigan, Guthrie, Kessinger and Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 515) passed.

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

On this question, the yeas and nays were taken (**Roll No. 424**), and there were—yeas 94, nays none, excused from voting 1, absent and not

voting 5, with the excused from voting and absent and not voting being as follows:

Excused from Voting: Eldridge.

Absent and Not Voting: Deem, Flanigan, Guthrie, Kessinger and Romine.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 515) takes effect from its passage.

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

Com. Sub. for S. B. 520, Allowing PEIA ability to recover benefits or claims obtained through fraud; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for S. B. 524, Rewriting Board of Barbers and Cosmetologists article; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 425**), and there were—yeas 31, nays 65, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Speaker Armstead, Anderson, Arvon, Atkinson, Azinger, Blair, Butler, Cadle, Cowles, Deem, Duke, Ellington, Espinosa, Foster, Hamrick, Hill, Howell, Ihle, Ireland, Kelly, Miller, Moffatt, O'Neal, Romine, R. Smith, Sobonya, Stansbury, Statler, Summers, Upson and Zatezalo.

Absent and Not Voting: Flanigan, Guthrie, Householder and Kessinger.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 524) rejected.

S. B. 552, Eliminating requirement sheriff pay jury costs to State Treasury; on third reading, coming up in regular order, was, on motion of Delegate Cowles laid upon the table.

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 426**), and there were—yeas 91, nays 5, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Duke, Ihle, Marcum, Phillips and Skinner.

Absent and Not Voting: A. Evans, Flanigan, Guthrie and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 573) passed.

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

Com. Sub. for S. B. 575, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Com. Sub. for S. B. 581, Eliminating sunset provision terminating pilot domestic violence court program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 427**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Duke, Flanigan, Hanshaw and Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 581) passed.

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

Com. Sub. for S. B. 591, Relating to voter registration list maintenance and combined voter registration and driver licensing fund; certification; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Lane asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the consideration of such.

On motion of Delegate Lane, the bill was amended on page one, section three, at line eight, immediately following the word “State”, by deleting the word “shall” and inserting in lieu thereof the word “may”, and on page seven, section twenty-three, at line one (46), by deleting section twenty-three in its entirety.

The bill was then read a third time.

Delegate Trecost requested to be excused from voting on the passage of Com. Sub. for S. B. 591 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 428**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger, Blackwell, Butler, Cowles, Faircloth, Folk, Ihle, Kelly, Kurcaba, Lynch, McGeehan, J. Nelson, Rowan, Rowe, Shaffer, P. Smith, Sobonya, Trecost, Upson and Wagner.

Absent and Not Voting: Flanigan, Kessinger and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 591) passed.

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

Com. Sub. for S. B. 591 — “A Bill to amend and reenact §3-2-3, §3-2-4a, and §3-2-12 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated as §3-2-23a, all relating to additional duties for the Secretary of State relating to voter registration; authorization of the Secretary of State to undertake voter registration list maintenance; voter registration list maintenance generally; authorizing the Secretary of State to undertake voter registration list maintenance in a county if within ninety days of providing written notice to the clerk of the county commission of the need for voter registration list maintenance the clerk has failed to complete such maintenance; delineating notice requirements; the Combined Voter Registration and Driver Licensing Fund; authorizing Secretary of State to enter into agreement with Division of Motor Vehicles for Division of Motor Vehicles to provide certain

information; setting forth information to be provided by Division of Motor Vehicles; permitting Secretary of State to use information for voter registration list maintenance comparison through interstate data-sharing agreement as designated by Secretary of State; identifying additional permissible uses of funds in Combined Voter Registration and Driver Licensing Fund; providing for periodic transfer of funds from that fund to the General Revenue Fund under certain circumstances; cancellation of registration of deceased or ineligible voters generally; and providing rule-making authority to the Secretary of State to accomplish the provisions of the bill.”

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

On this question, the yeas and nays were taken (**Roll No. 429**), and there were—yeas 88, nays 8, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Folk, Ihle, Kurcaba, McGeehan, J. Nelson, Rowan, Trecost and Wagner.

Absent and Not Voting: Flanigan, Gearheart, Kessinger and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 591) takes effect from its passage.

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

Com. Sub. for S. B. 592, Relating to pipeline safety; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for S. B. 592 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that Mr. Armstead was a member of a class of persons possibly to be affected by the passage of the bill but exhibited no direct personal or pecuniary interest therein, and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 430**), and there were—yeas 91, nays 3, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Folk, Ihle and McGeehan.

Absent and Not Voting: Campbell, Eldridge, Flanigan, Kessinger, Moffatt and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 592) passed.

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

Com. Sub. for S. B. 622, Composition of PEIA Finance Board; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

S. B. 648, Allowing local authorities permit flashing traffic signals during low traffic times; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 431**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Campbell, Eldridge, Flanigan, Ireland, Kessinger, Moffatt and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 648) passed.

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

S. B. 656, Creating Upper Kanawha Valley Resiliency and Revitalization Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 90, nays 4, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Azinger, Folk, Ihle and McGeehan.

Absent and Not Voting: Campbell, Eldridge, Flanigan, Kessinger, Moffatt and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 656) passed.

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

S. B. 678, Relating to ownership and use of conduit providing telephone service; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 433**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Hamrick.

Absent and Not Voting: Campbell, Eldridge, Flanigan, Kessinger, McCuskey, Moffatt and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 678) passed.

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

At 2:15 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 7:00 p.m.

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Evening Session

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Second Reading

Com. Sub. for S. B. 6, Requiring drug screening and testing of applicants for TANF program; on second reading, coming up in regular order, was read a second time.

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §9-3-6, to read as follows:

ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.

§9-3-6. Pilot program for drug screening of applicants for cash assistance.

(a) As used in this section:

(1) ‘Applicant’ means a person who is applying for benefits from the Temporary Assistance for Needy Families Program.

(2) ‘Board of Review’ means the board established in subdivision (2), section six, article two, chapter nine of this code.

(3) ‘Caseworker’ means a person employed by the department with responsibility for making a reasonable suspicion determination during the application process for Temporary Assistance for Needy Families.

(4) ‘Child Protective Services’ means the agency within the department responsible for investigating reports of child abuse and neglect as required in section eight hundred two, article two, chapter forty-nine of this code.

(5) ‘Department’ means the Department of Health and Human Resources.

(6) ‘Drug screen’ or ‘drug screening’ means any analysis regarding substance abuse conducted by the Department of Health and Human Resources on applicants for assistance from the Temporary Assistance for Needy Families program.

(7) ‘Drug test’ or ‘drug testing’ means a drug test which tests urine for Amphetamines (amphetamine and methamphetamine) Cocaine, Marijuana, Opiates (codeine and morphine), Phencyclidine, Barbiturates, Benzodiazepines, Methadone, Propoxyphene and Expanded Opiates (oxycodone, hydromorphone, hydrocodone, oxymorphone).

(8) ‘Secretary’ means the secretary of the department or his or her designee.

(9) ‘Temporary Assistance for Needy Families Program’ means assistance provided through ongoing cash benefits pursuant to 42 U. S. C. §601, *et seq.*, operated in West Virginia as the West Virginia Works Program pursuant to article nine of this chapter.

(b) Subject to federal approval, the secretary shall implement and administer a three year pilot program to drug screen any adult applying for assistance from the Temporary Assistance for Needy Families Program. The secretary shall seek the necessary federal approval immediately following the enactment of this section and the program shall begin within sixty days of receiving federal approval.

(c) Reasonable suspicion exists if:

(1) A case worker determines, based upon the result of the drug screen, that the applicant demonstrates qualities indicative of substance abuse based upon the indicators of the drug screen; or

(2) An applicant has been convicted of a drug-related offense within the three years immediately prior to an application for Temporary Assistance for Needy Families Program and whose conviction becomes known as a result of a drug screen as set forth in this section.

(d) Presentation of a valid prescription for a detected substance that is prescribed by a health care provider authorized to prescribe a controlled substance is an absolute defense for failure of any drug test administered under the provisions of this section.

(e) Upon a determination by the case worker of reasonable suspicion as set forth in this section an applicant shall be required to complete a drug test. The cost of administering the drug test and initial substance abuse testing program is the responsibility of the Department of Health and Human Resources. Any applicant whose drug test results are positive may request that the drug test specimen be sent to an alternative drug-testing facility for additional drug testing. Any applicant who requests an additional drug test at an alternative drug-testing facility shall be required to pay the cost of the alternative drug test.

(f) Any applicant who has a positive drug test shall complete a substance abuse treatment and counseling program and a job skills program approved by the secretary. An applicant may continue to receive benefits from the Temporary Assistance for Needy Families program while participating in the substance abuse treatment and counseling program or job skills program. Upon completion of both a substance abuse treatment and counseling program and a job skills program, the applicant is subject to periodic drug screening and testing as determined by the secretary in rule. Subject to applicable federal laws, any applicant for Temporary Assistance for Needy Families program who fails to complete, or refuses to participate in, the substance abuse treatment and counseling program or job skills program as required under this subsection is ineligible to receive Temporary Assistance for Needy Families until he or she is successfully enrolled in substance abuse treatment and counseling and job skills programs. Upon a second positive drug test, an applicant shall be ordered to complete a second substance abuse treatment and counseling program and job skills program. He or she shall be suspended from the Temporary Assistance for Needy Families program for a period of twelve months, or until he or she completes both a substance abuse treatment and counseling program and a job skills program. Upon a third positive drug test an applicant shall be permanently terminated from the Temporary Assistance for Needy Families Program subject to applicable federal law.

(g) Any applicant who refuses a drug screen or a drug test is ineligible for assistance.

(h) The secretary shall order an investigation and home visit from Child Protective Services on any applicant who is declared ineligible for failure to pass a drug test. This investigation and home visit may include a face-to-face interview with the child, if appropriate; the development of a protection plan; and, if necessary for the health and well-being of the child, may also involve law enforcement. This investigation and home visit shall be followed by a report detailing recommended action which Child Protective Services shall undertake.

Child Protective Services is responsible for providing, directing or coordinating the appropriate and timely delivery of services to any child who is the subject of any investigation and home visit conducted pursuant to this section. In cases where Child Protective Services determines that the best interests of the child requires court action, they shall initiate the appropriate legal proceeding.

(i) Any other adult members of a household that includes a person declared ineligible for the Temporary Assistance for Needy Families program pursuant to this section shall, if otherwise eligible, continue to receive Temporary Assistance for Needy Families benefits.

(j)(1) No dependent child's eligibility for benefits under the Temporary Assistance for Needy Families program may be affected by a parent's failure to pass a drug test.

(2) If pursuant to this section a parent is deemed ineligible for the Temporary Assistance for Needy Families program, the dependent child's eligibility is not affected and an appropriate protective payee shall be designated to receive benefits on behalf of the child.

(3) The parent may choose to designate another person as a protective payee to receive benefits for the minor child. The designated person shall be an immediate family member, or if an immediate family member is not available or declines the option, another person may be designated.

(4) The secretary shall screen and approve the designated person.

(k)(1) An applicant who is determined by the secretary to be ineligible to receive benefits pursuant to subsection (f) of this section due to a failure to participate in a substance abuse treatment and counseling program or a job skills program who can later document successful completion of a drug treatment program approved by the secretary may reapply for benefits six months after the completion of the substance abuse treatment and counseling program or job skills program. An applicant who has met the requirements of this

subdivision and reappplies is also required to submit to a drug test and is subject to the provisions of subsection (f) of this section.

(2) An applicant may reapply only once pursuant to the exceptions contained in this subsection.

(3) The cost of any drug screen or test and drug treatment provided under subsection (k) is the responsibility of the individual being screened and receiving treatment.

(l) An applicant who is denied assistance under this section may request a review of the denial by the Board of Review. The results of a drug screen or test are admissible without further authentication or qualification in the review of denial by the Board of Review and in any appeal. The Board of Review shall provide a fair, impartial and expeditious grievance and appeal process to applicants who have been denied Temporary Assistance for Needy Families pursuant to the provisions of this section. The Board of Review shall make findings regarding the denial of benefits and issue a decision which either verifies the denial or reverses the decision to deny benefits. Any applicant adversely affected or aggrieved by a final decision or order of the Board of Review may seek judicial review of that decision.

(m) The secretary shall ensure the confidentiality of all drug screen and drug test results administered as part of this program. Drug screen and test results shall be used only for the purpose of determining eligibility for the Temporary Assistance for Needy Families program. At no time may drug screen or test results be released to any public or private person or entity or any law-enforcement agency, except as otherwise authorized by this section.

(n) The secretary shall promulgate emergency rules pursuant to the provisions of article three, chapter twenty-nine-a to prescribe the design, operation and standards for the implementation of this section.

(o) A person who intentionally misrepresents any material fact in an application filed under the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 nor more than \$1,000 or by confinement in jail not to exceed six months, or by both fine and confinement.

(p) The secretary shall report to the Joint Committee on Government and Finance by December 31, 2016, and annually after that until the conclusion of the pilot program on the status of the federal approval and pilot program described in this section. The report shall include, but is not limited to:

(1) The total number of applicants who were deemed ineligible to receive benefits under the program due to a positive drug test for controlled substances;

(2) The number of applicants for whom there was a reasonable suspicion due to a conviction of a drug-related offense within the five years prior to an application for assistance;

(3) The number of those applicants that receive benefits after successful completion of a drug treatment program as specified in this section; and

(4) The total cost to operate the program.

(q) Should federal approval not be given for any portion of the program as set forth in this section, the secretary shall implement the program to meet the federal objections and continue to operate a three year pilot program consistent with the purpose of this section.

(r) For the purposes of the pilot program contained in this section, pursuant to the authority and option granted by 21 U. S. C. §862a(d)(1)(A) to the states, West Virginia hereby exempts all persons domiciled within the state from the application of 21 U. S. C. §862a(a).”

Delegate Pushkin moved to amend the amendment on page one, section six, line seventeen, by striking out the word “Marijuana”.

The Speaker put the question on the adoption of the foregoing amendment to the amendment, and the same did not prevail.

Delegates Fluharty and Pushkin moved to amend the amendment on page two, section six, line twenty-six, following the words “Families Program”, by striking out the period and inserting the words “or state legislator.”

On page two, section six, line thirty-two, by striking out the word “or”.

And,

On page two, section six, line thirty-five, by striking out the period and inserting a semi-colon and the following:

“or

(3) In the case of a state legislator, the legislator has been convicted of a drug-related offense within the past three years. Upon a positive test, the legislator shall undergo the treatment program as established by this section. Failure to undergo and successfully complete the treatment program will result in the Legislature forfeiting all pay and expense reimbursement that the legislator would be otherwise be entitled to.”

Delegate Ellington arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the purpose of the amendment was not germane to the fundamental purpose of the bill.

Delegate Fluharty the appealed the ruling of the Chair, which demand was sustained.

Delegate Fluharty then, by unanimous consent, withdrew his appeal.

Delegate Hornbuckle moved to amend the amendment on page one, lines one and two, by striking out the enacting section, and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §9-3-6 and §9-3-7, all to read as follows:”

And,

On page six, line one hundred thirty-six, following the period, by inserting a new section designated §9-3-7, to read as follows:

“§9-3-7. Application for and granting assistance for funding of private projects.

(a) As used in this section:

(1) ‘Applicant’ means a person who is applying for a funding from the state for a private project funded by state dollars, and if the applicant is a corporation or other business entity that is an association, corporation or partnership, then the chief operating officers or if none exists, principals of the entity are subject to the provisions of this section;

(2) ‘Drug test’ means a drug test which tests urine for Amphetamines (amphetamine and methamphetamine) Cocaine, Marijuana, Opiates (codeine and morphine), Phencyclidine, Barbiturates, Benzodiazepines, Methadone, Propoxyphene and Expanded Opiates (oxycodone, hydromorphone, hydrocodone, oxymorphone); and

(3) ‘Secretary’ means the secretary of the department or his or her designee.

(b) Each applicant for any private construction project or other activity which is receiving ten percent or more of its funding by a grant, loan, bond issuance, tax increment financing or other state sponsored program or initiative to finance the project, that upon completion will be privately owned by the applicant or other private person or entity, the applicant shall submit verification of a drug test as a precondition for receipt of funding. The Secretary shall promulgate legislative rules pursuant to article three, article twenty-nine-a of the code, necessary to effectuate the provisions of this section. A positive result for any drug test results in the applicant being ineligible to receive any government funding.”

Delegate O’Neal arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the purpose of the amendment was not germane to the fundamental purpose of the bill.

Delegates Fleischauer, Folk, Pushkin, Perdue, Skinner, Hornbuckle, McGeehan and Azinger moved to amend the amendment on page two, section six, lines twenty-nine through thirty-five, by striking out subsection (c) in its entirety.

On page four, section six, line thirty-six by re-lettering subsection (d) to subsection (c).

On pages three and four, section six, lines thirty-nine through forty-five, by striking out subsection (e) in its entirety, and inserting in lieu thereof the following:

“(e) Issuance and execution of warrants shall be as follows:

(1) A judge of any court of record in this state having criminal jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of authorizing drug tests under this act or rules hereunder.

(2) A warrant shall issue only upon an affidavit of a case worker or designated officer having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. Grounds for determining probable cause may include:

(i) The results of the drug screen;

(ii) Convictions for drug-related offenses within 3 years of the date of application;

(iii) Observations of the case worker during the application process;

(iv) Any other information volunteered during the application or which is otherwise publicly available;

(3) If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge shall issue a warrant authorizing collection of a urine sample for drug test for the purposes of determining eligibility for TANF benefits as provided for in this section. The warrant shall:

(i) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(ii) Be directed to a person or agency authorized to execute it;

(iii) Command the person to whom it is directed to provide a urine sample pursuant to administrative rules;

(iv) Direct that it be served during normal business hours and designate the judge to whom it shall be returned.

(4) A warrant issued pursuant to this section must be executed within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. Upon issuance of a warrant an applicant shall be required to complete a drug test. The cost of administering the drug test is the responsibility of the Department of

Health and Human Resources. Any applicant whose drug test results are positive may request that the drug test specimen be sent to an alternative drug-testing facility for additional drug testing. Any applicant who requests an additional drug test at an alternative drug-testing facility shall be required to pay the cost of the alternative drug test.”

And,

By renumbering the subsequent subsections accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 434**), and there were—yeas 38, nays 54, absent and not voting 8, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Ferro, Fleischauer, Fluharty, Folk, Frich, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Morgan, Moye, Perdue, Perry, Pethel, Pushkin, Reynolds, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Deem, Flanigan, Hanshaw, Kessinger, Lane, Moore, J. Nelson and Romine.

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

There being no further amendments, the amendment recommended by the Committee on the Judiciary was adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 43, Clarifying means of posting to prohibit hunting or trespassing; on second reading, coming up in regular order, was read a second time.

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

“That §20-2-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §61-3B-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-8. Posting unenclosed lands; hunting, etc., on posted land.

The owner, lessee or other person entitled to possession of unenclosed lands may have erected and maintained signs or placards legibly printed, easily discernible, conspicuously posted and reasonably spaced or, alternatively, may mark the posted land as set forth in section one, article three-b, chapter sixty-one of this code, so as to indicate the territory in which hunting, trapping or fishing is prohibited.

Any person who enters upon the unenclosed lands of another which have been lawfully posted, for the purpose of hunting, trapping or fishing, shall be guilty of a misdemeanor. The officers charged with the enforcement of the provisions of this chapter shall have the duty to enforce the provisions of this section if requested to do so by such owner, lessee, person or agent, but not otherwise.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 3B. TRESPASS.

§61-3B-1. Definitions.

As used in this article:

(1) 'Structure' means any building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof.

(2) 'Conveyance' means any motor vehicle, vessel, railroad car, railroad engine, trailer, aircraft or sleeping car, and 'to enter a conveyance' includes taking apart any portion of the conveyance.

(3) An act is committed 'in the course of committing' if it occurs in an attempt to commit the offense or in flight after the attempt or commission.

(4) 'Posted land' is land that has:

~~(A) Land upon which reasonably maintained signs are~~ Signs placed not more than five hundred feet apart, along and at each corner of the boundaries of the land. ~~upon which signs there appears, prominently in~~ The signs shall be reasonably maintained, with letters of not less than two inches in height and the words 'no trespassing'. ~~and in addition thereto the name of the owner, lessee or occupant of the land.~~ The signs shall be placed along the boundary line and at all roads, driveways and gates of entry onto the ~~of~~ posted land ~~in a manner and in a position~~ so as to be clearly noticeable from outside of the boundary line; or

(B) Boundaries marked with clearly visible purple painted markings, consisting of two horizontal, parallel lines, each no less than twelve inches in length and two inches in height, affixed to immovable, permanent objects that are no more than five hundred feet apart. Signs shall also be posted at all roads, driveways or gates of entry onto the posted land so as to be clearly noticeable from outside of the boundary line.

~~(C) It shall not be~~ It is not necessary to give notice by posting on any enclosed land or place not exceeding five acres in area on which there is a dwelling house or property that by its nature and use is obviously private in order to obtain the benefits of this article pertaining to trespass on enclosed lands.

(5) ‘Cultivated land’ is that land which has been cleared of its natural vegetation and is presently planted with a crop, orchard, grove, pasture or trees or is fallow land as part of a crop rotation.

(6) ‘Fenced land’ is that land which has been enclosed by a fence of substantial construction, whether with rails, logs, post and railing, iron, steel, barbed wire, other wire or other material, which stands at least three feet in height. For the purpose of this article, it shall not be necessary to fence any boundary or part of a boundary of any land which is formed by water and is posted with signs pursuant to the provisions of this article.

(7) Where lands are posted, cultivated or fenced as described herein, then such lands, for the purpose of this article, shall be considered as enclosed and posted.

(8) ‘Trespass’ under this article is the willful unauthorized entry upon, in or under the property of another, but shall not include the following:

~~(a)~~ (A) Entry by the state, its political subdivisions or by the officers, agencies or instrumentalities thereof as authorized and provided by law.

~~(b)~~ (B) The exercise of rights in, under or upon property by virtue of rights-of-way or easements by a public utility or other person owning such right-of-way or easement whether by written or prescriptive right.

~~(c)~~ (C) Permissive entry, whether written or oral, and entry from a public road by the established private ways to reach a residence for

the purpose of seeking permission shall not be trespass unless signs are posted prohibiting such entry.

(~~d~~) (D) Entry performed in the exercise of a property right under ownership of an interest in, under or upon such property.

(~~e~~) (E) Entry where no physical damage is done to property in the performance of surveying to ascertain property boundaries, and in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner's property.”

On motion of Delegate Ireland, the Judiciary Committee amendment was amended on page two, subdivision (4), paragraph (B), lines seventeen through twenty-one, by striking out paragraph (B) in its entirety and inserting in lieu thereof the following:

“Boundaries marked with a clearly visible purple painted marking, consisting of one vertical line no less than eight inches in length and two inches in width, and the bottom of the mark not less than three nor more than six feet from the ground or normal water surface. Such marks shall be affixed to immovable, permanent objects that are no more than one hundred feet apart and readily visible to any person approaching the property. Signs shall also be posted at all roads, driveways or gates of entry onto the posted land so as to be clearly noticeable from outside the boundary line.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 195, Authorizing DHHR to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk page two, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Department of Health and Human Resources.

(a) The legislative rule effective on December 29, 1967, authorized under the authority of section seven, article one, chapter sixteen of this code, relating to the Department of Health and Human Resources (preliminary requirement for approval by the West Virginia Department of Health of a laboratory for a specified technique, 64 CSR 26), is repealed.

(b) The legislative rule effective on December 29, 1967, authorized under the authority of section seven, article one, chapter sixteen of this code, relating to the Department of Health and Human Resources (ice cream and frozen milk, 64 CSR 28), is repealed.

(c) The legislative rule effective on May 16, 1983, authorized under the authority of section seven, article five-a, chapter sixteen of this code, relating to the Department of Health and Human Resources (establishment of a Controlled Substances Therapeutic Research Program and the certification of patients, practitioners and hospital pharmacies, 64 CSR 33), is repealed.

(d) The legislative rule effective on May 30, 1983, authorized under the authority of section twelve, article three, chapter sixteen of this code, relating to the Department of Health and Human Resources (instillation of medication in the eyes of the newborn and the dissemination of advice and information concerning the dangers of inflammation of the eyes of the newborn, 64 CSR 35), is repealed.

(e) The interpretive rule effective on April 6, 1984, authorized under the authority of section fifteen-a, article one, chapter sixteen of this code, relating to the Department of Health and Human Resources (health facilities plan for the fiscal years 1985-89, 64 CSR 37), is repealed.

(f) The interpretive rule effective on October 1, 1971, authorized under the authority of section seven, article one, chapter sixteen of this code, relating to the Department of Health and Human Resources (design, information and procedural manual for mobile home parks, 64 CSR 41), is repealed.

(g) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four, article one, 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 December 8, 2015, relating to the Department of Health and Human Resources (emergency medical services, 64 CSR 48), is authorized with the following amendments:

On page thirty-one, paragraph 6.5.d.2, by striking out the phrase “one (1) year” and inserting in lieu thereof, the phrase “one hundred twenty (120) days”;

On page thirty-one, paragraph 6.5.d.3, by striking out the phrase “one (1) year” and inserting in lieu thereof, the phrase “one hundred twenty (120) days”;

On page thirty-one, paragraph 6.6., by striking out the phrase “two (2)” and inserting “four (4)”;

On page thirty-five, paragraph 6.14b, after the word “establish” by removing the words “by a procedural rule” and inserting the word “a”;

And,

On page fifty-seven, by inserting a new section twelve to read as follows:

§64-48-12. Community Paramedicine Demonstration Projects.

12.1 Establishment of community paramedicine demonstration projects. The Director may establish up to 6 demonstration projects for the purpose of developing and evaluating a community paramedicine program. A demonstration project established pursuant to this section may not exceed 2 years in duration.

12.2 As used in this section, “community paramedicine” means the practice by an emergency medical services provider primarily in an out-of-hospital setting of providing episodic patient evaluation, advice, and care directed at preventing or improving a particular medical condition which may require emergency medical services providers to function outside their customary emergency response and transport roles, as specifically requested or directed by a physician, in ways that facilitate more appropriate use of emergency care resources and enhance access to primary care for medically vulnerable populations.

12.3 The Director shall establish the requirements and application and approval process of demonstration projects established pursuant to this section. At a minimum, an emergency medical services provider that conducts a demonstration project shall:

12.3.a. Demonstrate the financial sustainability of its project through reliable funding sources;

12.3.b. Work with an identified primary care medical director and have an emergency medical services medical director;

12.3.c. Submit protocols for approval by the MPCC and the Commissioner; and

12.3.d. Collect and submit data and written reports to the Director, in accordance with requirements established by the Director.

12.4. At the end of two years any demonstration project authorized by the Director will terminate and the Director shall submit a written report to the Commissioner, including specific data on utilization of the program, the improvement in quality of care and care coordination in the community, and the reduction of health care costs with respect to ambulance transportation, hospital emergency department visits, and hospital readmissions. Upon receipt of the annual report, OEMS and the Commissioner shall evaluate the demonstration project and determine how to further develop community paramedicine and whether to expand its scope.”

(h) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section four, article one, chapter sixteen of this code, relating to the Department of Health and Human Resources (fees for service, 64 CSR 51), is authorized with the following amendments:

To Appendix A of 64 CSR 51 at Section 1. (Fees for Environmental Chemistry Laboratory Services), B. Organic Compounds, by including a new paragraph 8 to read as follows:

Harmful Algae Bloom (HAB)

a. Screening analyses for each individual toxin:

Analyses may include, but are not limited to, Microcystin, Cylindrospermopsin, Anatoxin-a, Saxitoxin and B-Methylamino- L-alanine. \$65

b. Confirmation of each individual toxin:

Analyses may include, but are not limited to, Microcystin, Cylindrospermopsin, Anatoxin-a, Saxitoxin and B-Methylamino- L-alanine. \$65

(i) The interpretive rule effective on August 1, 1987, authorized under the authority of article three-b, chapter sixteen of this code, relating to the Department of Health and Human Resources (pertussis guidelines, 64 CSR 52), is repealed.

(j) The legislative rule effective on June 1, 1987, authorized under the authority of section two, article three-a, chapter sixteen of this code, relating to the Department of Health and Human Resources (hazardous materials treatment information repository, 64 CSR 53), is repealed.

(k) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section four, article one, 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 September 23, 2015, relating to the Department of Health and Human Resources (infectious medical waste, 64 CSR 56), is authorized.

(l) The legislative rule effective on April 18, 1988, authorized under the authority of section four, article three, chapter sixteen of this code, relating to the Department of Health and Human Resources (immunization criteria for transfer students, 64 CSR 58), is repealed.

(m) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section four, article one, chapter sixteen of this code, relating to the Department of Health and Human Resources (AIDS-related medical testing and confidentiality, 64 CSR 64), is authorized.

(n) The legislative rule effective on April 22, 1992, authorized under the authority of section twenty-two, article five, chapter eighteen of this code, relating to the Department of Health and Human Resources (specialized health procedures in public schools, 64 CSR 66), is repealed.

(o) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section two, article three-d, chapter sixteen of this code, relating to the Department of Health and Human Resources (tuberculosis testing, control, treatment and commitment, 64 CSR 76), is authorized.

(p) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section four, article thirty-five, chapter nineteen 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 23, 2015, relating to the Department of Health and Human Resources (farmers market vendors, 64 CSR 102), is authorized with the following amendments:

On page five, section 4, subsection 9, subdivision b, by striking out the words “30th day of June” and inserting in lieu thereof the words “31st day of December”.

(q) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section four, article one, 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 September 23, 2015, relating to the Department of Health and Human Resources (the certification of opioid overdose prevention and treatment training programs, 64 CSR 104), is authorized.

(r) The procedural rule effective on December 28, 1989, authorized under the authority of section three, article nine-a, chapter six of this code, relating to the Department of Health and Human Resources (procedural rules for the advisory Committee for the Omnibus Health Care Act, 69 CSR 4), is repealed.

(s) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four, article one, 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 December 8, 2015, relating to the Department of Health and Human Resources (chronic pain management licensure, 69 CSR 8), is authorized with the following amendments:

On page three, subdivision 3.1.b, by reinserting the stricken language ‘in any one month’;

And,

On page three, subdivision 3.1.c, after the word, ‘office’ by reinserting the stricken language ‘in any one month’ and after the word, ‘office’ by reinserting the stricken language ‘in any one month’.

And,

On page five, subdivision 4.1.d., by inserting the word “designated” before the term “physician owner”;

And,

On page sixteen, subparagraph 10.2.c.6, after the word, every by removing, ‘90’ and inserting ‘60’;

And,

On page twenty, by inserting new subdivision 11.7.n to read as follows: ‘11.7.n A record of all cash transactions.’”

(t) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four, article one, 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 December 8, 2015, relating to the Department of Health and Human Resources (neonatal abstinence centers, 69 CSR 9), is authorized with the following amendments:

On page fourteen, paragraph 5.5.a.1, after the word, ‘field’ by inserting the words, ‘at the discretion of the governing body’; and On page 14, paragraph 5.5.a.2, after the word, ‘field’ by inserting the words, ‘at the discretion of the governing body’;

And,

On page twenty-one, subdivision 6.8.a, by striking it in its entirety and inserting in lieu thereof, '6.8.a The center shall be located within fifteen minutes of a hospital.';

And,

On page twenty-two, subdivision 6.9.b, by striking 'sources such as railroads, freight yards, traffic arteries and airports';

And,

On page thirty, subdivision 7.9.f by striking the word, 'Mothers' and inserting the word, 'Parents';

And,

On page thirty-six subdivision 9.5.a by striking the word, 'shall' and inserting the word, 'may';

And,

On page thirty-seven, subdivision 9.8.a, after the word, 'all' by inserting, 'patient care'; On page 37, subdivision 9.8.b, after the word, 'all' by inserting, 'patient care'; On page 37, subdivision 9.8.c, after the word, 'all' by inserting, 'patient care'; and On page 38, subdivision 9.8.d, after the word, 'new' by inserting, 'patient care';

And,

On page fifty-two, subsection 14.1 by striking the word, 'Mothers' and inserting the word, 'Parents'; On page fifty-three, subdivision 14.2.a. by striking the word, 'Mothers' and inserting the word, 'Parents'; and On page 53, subdivision 14.2.b. by striking the word, 'Mothers' and inserting the word, 'Parents'."

(u) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section nine, article forty-nine,

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 23, 2015, relating to the Department of Health and Human Resources (West Virginia clearance for access; registry and employment screening, 69 CSR 10), is authorized, with the following amendments:

On page two, subsection 2.5, by deleting the period at the end of the subsection, and by inserting a comma and new language as follows: “and any provider authorized by the Secretary.”

And,

On page three, subdivisions 2.11.i. and 2.11.j. by renumbering them 2.10.i and 2.10.j. and by inserting the word “Felony” before the word “crimes”;

And,

On page four, after subsection 5.2, insert new language as follows:

“5.3 If the Secretary’s review of an applicant’s criminal history record information reveals a pending charge that has not received a final disposition, the following shall apply:

5.3.a. If the pending charge is a disqualifying misdemeanor offense, and the applicant has not had a conviction for a disqualifying offense in the last seven years, the Secretary shall provide written notice to the covered provider or covered contractor advising that the applicant is eligible for work.

5.3.b. If the pending charge is a disqualifying felony offense, the Secretary shall provide written notice to the covered provider or covered contractor advising that the applicant is ineligible for work, unless a variance has been requested or granted.

5.3.c. Once a final disposition has been made on the pending charge, the Secretary shall review the criminal history record information de novo in accordance with the provisions of this rule and W.Va. Code §16-49-1 *et seq.*”

And renumber the remaining subsections.

(v) The legislative rule filed in the State on July 31, 2015, authorized under the authority of section one hundred twenty-one, article two, chapter forty-nine of this code, relating to the Department of Health and Human Resources (child care licensing requirements, 78 CSR 1), is authorized.

(w) The legislative rule effective on November 1, 1985, authorized under the authority of article four, chapter forty-nine of this code, relating to the Department of Health and Human Resources (incorporation of the handicapped children services manual, 78 CSR 9), is repealed.

(x) The legislative rule effective on June 15, 1989, authorized under the authority of section three, article five, chapter forty-eight-a of this code, relating to the Department of Health and Human Resources (termination of income withholding, 78 CSR 11), is repealed.

(y) The legislative rule effective on June 15, 1989, authorized under the authority of section fifteen, article two, chapter forty-eight-a of this code, relating to the Department of Health and Human Resources (obtaining support from federal and state income tax refunds, 78 CSR 12), is repealed.

(z) The legislative rule effective on June 15, 1989, authorized under the authority of section eleven, article two, chapter forty-eight-a of this code, relating to the Department of Health and Human Resources (interstate income withholding, 78 CSR 13), is repealed.

(aa) The legislative rule effective on June 15, 1989, authorized under the authority of section nineteen, article two, chapter

forty-eight-a of this code, relating to the Department of Health and Human Resources (providing information to credit reporting agencies, 78 CSR 14), is repealed.

(bb) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section one hundred twenty-one, article two, chapter forty-nine of this code, relating to the Department of Health and Human Resources (family child care facility licensing requirements, 78 CSR 18), is authorized.

(cc) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section one hundred twenty-one, article two, chapter forty-nine 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 28, 2015, relating to the Department of Health and Human Resources (family child care home registration requirements, 78 CSR 19), is authorized.

(dd) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section eleven, article nine, chapter nine 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 November 13, 2015, relating to the Department of Health and Human Resources (W.Va. Works Program sanctions, 78 CSR 23), is authorized with the following amendments:

On page three, by striking section 4 in its entirety and inserting in lieu thereof a new section four to read as follows:

“The sanctions are applied in the form of termination of benefits for a specific length of time. The length of termination of benefits is determined as follows:

First sanction – entire assistance group ineligible for one month;

Second sanction – entire assistance group ineligible for six months;

Third sanction – entire assistance group ineligible for one year; but may reapply within one year.”

(ee) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section sixteen, article thirty, chapter thirty 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 December 8, 2015, relating to the Department of Health and Human Resources (qualifications for a restricted provisional license to practice as a social worker within the department, 78 CSR 24), is authorized.

(ff) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section one hundred twenty-six, article two, chapter forty-nine 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 December 22, 2015, relating to the Department of Health and Human Resources (goals for foster children, 78 CSR 25), is authorized.

§64-5-2. Health Care Authority.

(a) The legislative rule effective on May 5, 1984, authorized under the authority of section one, article twenty-nine-b, chapter sixteen of this code, relating to the Health Care Authority (freeze on hospital rates and granting of temporary rate increases, 65 CSR 2), is repealed.

(b) The legislative rule effective on May 20, 1985, authorized under the authority of section eight, article twenty-nine-b, chapter sixteen of this code, relating to the Health Care Authority (Utilization Review and Quality Assurance Program – Phase 1, 65 CSR 4), is repealed.

(c) The legislative rule effective on April 10, 1984, authorized under the authority of section one, article twenty-nine-b, chapter sixteen of this code, relating to the Health Care Authority (limitation on hospital gross patient revenue, 65 CSR 8), is repealed.

(d) The legislative rule effective on June 24, 1993, authorized under the authority of section four, article two-d, chapter sixteen of this code, relating to the Health Care Authority (exemption for rural primary care hospitals, 65 CSR 25), is repealed.

§64-5-3. Human Rights Commission.

The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four, article eleven-b, chapter five of this code, modified by the Human Rights Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 8, 2015, relating to the Human Rights Commission (Pregnant Workers' Fairness Act, 77 CSR 10), is authorized with the amendments set forth below:

On pages one through three, sections 1 through 5, by striking out all of sections 1 through 5 and inserting in lieu thereof the following:

§77-10-1. General.

1.1.

1.2. Scope. The following legislative rule series, filed pursuant to the West Virginia Pregnant Workers' Fairness Act (PWFA), W. Va. Code §5-11B-1 *et seq.*, sets forth definitions and identifies some reasonable accommodations addressing known limitations related to pregnancy, childbirth, or related medical conditions.

1.3. Authority. – W. Va. Code §5-11B-4.

1.4. Filing date. – July 31, 2015.

1.5. Effective Date. –

§77-10-2. Definitions.

2.1. “Affected by pregnancy” means a woman who is pregnant or is experiencing medical conditions related to her pregnancy which has ended.

2.2. “Undue hardship” – In general, the term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subdivision 2.2.1.

2.2.1. Factors to be considered. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

2.2.1.a. The nature and cost of the accommodation needed under this article;

2.2.1.b. The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

2.2.1.c. The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

2.2.1.d. The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

2.3. “Reasonable accommodation” – The term “reasonable accommodation” may include:

2.3.1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

2.3.2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

2.4. “Related medical conditions” means physical and mental symptoms or limitations relating to or caused by a pregnancy, including but not limited to, miscarriage, complications of pregnancy or childbirth, gestational diabetes, pregnancy-induced hypertension, after-effects of delivery, post-partum depression, and lactation: *Provided*, That an elective abortion shall not be considered a related medical condition.

2.5. “Covered Entity” means the state, or any political subdivision thereof, and any person employing twelve or more persons within the state for twenty or more calendar weeks in the calendar year in which the act of discrimination allegedly took place or the preceding calendar year: *Provided*, That such terms shall not be taken, understood or construed to include a private club.

2.6. “Person” means one or more individuals, partnerships, associations, organizations, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons.

§77-10-3. Examples of Reasonable Accommodations.

3.1. Reasonable accommodations that may be made by a covered entity include, but are not limited to:

3.1.1. Bathroom breaks;

3.1.2. Breaks for increased water intake;

3.1.3. Periodic rest;

3.1.4. Assistance with manual labor;

3.1.5. Providing time off for prenatal medical appointments;

3.1.6. Modified work policies or procedures;

3.1.7. Temporary transfers to less strenuous or less hazardous work;

3.1.8. Allowing for more time or more frequent eating;

3.1.9. Allowing time for taking prescribed medications; and

3.1.10. Providing access to existing facilities that are more convenient and usable by a woman affected by pregnancy.”

On motion of Delegate Ellington, the amendment recommended by the Committee on the Judiciary was amended on page six, line ninety-three, after the colon, by striking out the remainder of subsection (s) and inserting the following:

“On page three, after subsection 2.24, by inserting new language as follows:

“2.25. Terminal Condition – an illness or disease that cannot be cured and the medical prognosis is that the individual’s life expectancy is six months or less if the illness runs its normal course.”

And, renumbering the remaining subsections.

And,

On page three, subdivision 3.1.b, by striking the word ‘prescribers’ and inserting ‘clinic’ and inserting after the word ‘conditions’ the

phrase ‘that are not terminal’. On page three, subdivision 3.1.b, by reinserting the stricken language ‘in any one month’;

And,

On page three, subdivision 3.1.c, after the word, ‘office’ by reinserting the stricken language ‘in any one month’ and after the word, ‘office’ by reinserting the stricken language ‘in any one month’;

And,

On page four, subdivision 3.1.c, by inserting after the word ‘pain’ the phrase ‘for conditions that are not terminal’;

And,

On page four, subdivision 3.1.d, by inserting after the period the following language:

‘Clinics below the fifty percent patient calculation threshold will be subject to continued monitoring by the Office of Health Facility Licensure and Certification for changes in the patient ratio. Failure to cooperate with requests for information to verify patient calculations may subject the clinic to penalties and equitable relief pursuant to Section 18 of this rule.’;

And,

On page four, after subdivision 3.1.d, inserting new language as follows:

‘3.1.e. A pain clinic shall not offer a bounty, monetary or equipment or merchandise reward, or free services for individuals in exchange for recruitment of new patients into the clinic. A pain clinic shall not recruit new patients for the purpose of attempting to circumvent the licensure requirements of this rule.’;

And,

On page five, by striking subparagraph 3.2.i.2. in its entirety;

And,

On page five, subdivision 4.1.d., by inserting the word ‘designated’ before the term ‘physician owner’;

And,

On page nine, subsection 5.4, by inserting after the period the following:

‘If access is denied, a judge of any court of record in this state having criminal jurisdiction, and upon proper oath or affirmation showing probable cause, may issue administrative warrants for the purpose of conducting inspections and seizures of property appropriate to the inspections.’;

And,

On page sixteen, subparagraph 10.2.c.6, after the word, every by removing, ‘90’ and inserting ‘60’;

And,

On page twenty, by inserting new subdivision 11.7.n to read as follows: ‘11.7.n A record of all cash transactions.’;

And,

On page twenty-six, section 19, by inserting before the word suspended the word ‘denied.’.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 326, Repeal and recodify law relating to contributing to delinquency of minor child; on second reading, coming up in regular order, was read a second time.

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

“That §49-4-901 and §49-4-902 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new section, designated §61-8D-10, all to read as follows:

ARTICLE 8D. CHILD ABUSE.

§61-8D-10. Contributing to delinquency of a child; penalties; payment of medical costs; proof; court discretion; other payments; suspended sentence; maintenance and care; temporary custody.

(a) Any person eighteen years of age or older who knowingly contributes to or encourages the delinquency of a child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined for a period not exceeding one year or both.

(b) As used in this section, ‘delinquency’ means the violation or attempted violation of any federal or state statute, county or municipal ordinance, or a court order, or the habitual or continual refusal to comply, without just cause, with the lawful supervision or direction of a parent, guardian or custodian.

(c) In addition to any penalty provided under this section and any restitution which may be ordered by the court pursuant to section five, article eleven-a of this chapter the court may order any person convicted of a violation of subsection (a) of this section to pay all or

any portion of the cost of medical, psychological or psychiatric treatment provided the child resulting from the acts for which the person is convicted.

(d) This section does not apply to any parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody, or control of the parent, guardian, or custodian with necessary medical care, when medical care conflicts with the tenets and practices of a recognized religious denomination or order of which parent, guardian or custodian is an adherent or member.

(e) It is not an essential element of the offense created by this section that the minor actually be delinquent.

(f) Upon conviction, the court may suspend the sentence of a person found guilty under this section. A suspended sentence may be subjected to the following terms and conditions:

(1) That offender pay for any and all treatment, support, and maintenance while the child is in the custody of the state or person that the court determines reasonable and necessary for the welfare of the child;

(2) That the offender post a sufficient bond to secure the payment for all sums ordered to be paid under this section, as long as the bond does not exceed \$5,000; and

(3) That the offender participate in any program or training that will assist the child in correcting the delinquent behavior or, in the case of neglect, that will assist the offender in correcting his or her behavior that led to violation of this section.

(g)(1) The penalty of a bond given upon suspension of a sentence which becomes forfeited is recoverable without a separate suit. The court may cause a citation or a summons to issue to the principal and surety, requiring that they appear at a time named by the court, not less

than ten days, from the issuance of the summons, and show cause why a judgment should not be entered for the penalty of the bond and execution issued against the property of the principal and the surety.

(2) Any money collected or paid upon an execution, or upon the bond, shall be deposited with the clerk of the court in which the bond was given. The money shall be applied first to the payment of all court costs and then to the treatment, care, or maintenance of the child who was at issue when the offender was convicted of this section.

(h) If the guilty person had custody of the child prior to conviction, the court or judge may, on suspending sentence, permit the child to remain in the custody of the person, and make it a condition of suspending sentence that the person provides whatever treatment and care may be required for the welfare of the child, and shall do whatever may be calculated to secure obedience to the law or to remove the cause of the delinquency.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 330, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium; on second reading, coming up in regular order, was read a second time.

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

“That §33-6A-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6A. CANCELLATION OR NONRENEWAL OF
AUTOMOBILE LIABILITY POLICIES.**

**§33-6A-1. Cancellation prohibited except for specified reasons;
notice.**

(a) No insurer once having issued or delivered a policy providing automobile liability insurance for a private passenger automobile may, after the policy has been in effect for sixty days, or in case of renewal effective immediately, issue or cause to issue a notice of cancellation during the term of the policy except for one or more of the reasons specified in this section:

~~(a)~~ (1) The named insured fails to make payments of premium for the policy or any installment of the premium when due;

~~(b)~~ (2) The policy is obtained through material misrepresentation;

~~(c)~~ (3) The insured violates any of the material terms and conditions of the policy;

~~(d)~~ (4) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy:

~~(1)~~ (A) Has had his or her operator's license suspended or revoked during the policy period including suspension or revocation for failure to comply with the provisions of article five-a, chapter seventeen-c of this code regarding consent for a chemical test for intoxication: *Provided*, That when a license is suspended for sixty days by the Commissioner of the Division of Motor Vehicles because a person drove a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, pursuant to subsection (1), section two of said article, the suspension may not be grounds for cancellation; or

~~(2)~~ (B) Is or becomes subject to epilepsy or heart attacks and the individual cannot produce a certificate from a physician testifying to his or her ability to operate a motor vehicle; or

~~(e)~~ (5) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured

under such policy, is convicted of or forfeits bail during the policy period for any of the following reasons:

(1) (A) Any felony or assault involving the use of a motor vehicle;

(2) (B) Negligent homicide arising out of the operation of a motor vehicle;

(3) (C) Operating a motor vehicle while under the influence of alcohol or of any controlled substance or while having an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight;

(4) (D) Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required by law;

(5) (E) Theft of a motor vehicle or the unlawful taking of a motor vehicle;

(6) (F) Making false statements in an application for a motor vehicle operator's license; or

(7) (G) Three or more moving traffic violations committed within a period of twelve months, each of which results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all such violations. Notice of any cancellation made pursuant to this subsection shall be mailed to the named insured either during the current policy period or during the first full policy period following the date that the third moving traffic violation is recorded by the Division of Motor Vehicles.

~~(b) Notwithstanding any of the provisions of this section to the contrary, no insurer may cancel a policy of automobile liability insurance without first giving the insured thirty days' notice of its intention to cancel: *Provided*, That the insurance policy is voidable from the effective date and time of the policy issued by the insurer if~~

~~the insurer cancels the policy for failure of consideration to be paid by the insured upon initial issuance of the insurance policy and provides written notice to the insured of the cancellation within fifteen days of receipt of notice of the failure of consideration and consideration has not otherwise been provided within ten days of the notice of cancellation. Notice of cancellation for nonpayment of consideration shall be delivered to the named insured or sent by first class mail to the named insured at the address supplied on the application for insurance and shall state the effective date of the cancellation and shall be accompanied by a written explanation of the specific reason for the cancellation. If the insurer fails to provide such written notice to the insured, then the cancellation of the policy for failure of consideration is effective upon the expiration of ten days' notice of cancellation to the insured. Except as provided in subsections (c) and (d), no insurer may cancel a policy of automobile liability insurance without first giving the insured thirty days' notice of its intention to cancel. Notice of cancellation shall either be sent by first class mail to the named insured at the address supplied on the application for insurance, or by email or other electronic means if at the request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall state the effective date of the cancellation and provide a written explanation of the specific reason for the cancellation.~~

(c) If, pursuant to subsection (a) of this section, an insurer cancels a policy of automobile liability insurance for the failure of the named insured to make payments of premium for the policy or any installment of the premium when due, then the insurer shall first give the insured at least fourteen days' notice of its intention to cancel. Notice of cancellation shall be sent by first class mail to the named insured at the address supplied on the application for insurance, or by email or other electronic means if at the request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall state the effective date of the cancellation and provide a written explanation of the specific reason

for the cancellation. The notice period provided herein shall begin to run on the date mailed and payment shall be deemed accomplished by depositing in first class mail valid payment on or before the expiration date of the fourteen day notice period.

(d) If a named insured fails to make the initial payment of premium or any initial installment of the premium after the initial issuance of an automobile liability insurance policy, the insurance policy is voidable from the effective date and time the policy was issued: *Provided*, That the insurer shall send the insured written notice that the policy will be voided absent payment within ten days of any amounts due under the terms of the policy. Such notice shall either be sent by first class mail to the named insured at the address supplied on the application for insurance, or by email or other electronic means if at the request of the policyholder in accordance with the Uniform Electronic Transactions Act as codified in chapter thirty-nine-a of this code, and shall explain the specific reason for the voidance.”

The bill was then ordered to third reading.

S. B. 333, Taking and registering of wildlife; on second reading, coming up in regular order, was read a second time.

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

“That §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, be amended and reenacted, all to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-4. Possession of wildlife.

(a) Except for wildlife, lawfully taken, killed or obtained, no person may have in his or her possession any wildlife, or parts thereof,

during closed seasons. It is unlawful to possess any wildlife, or parts thereof, which have been illegally taken, killed or obtained. Any wildlife illegally taken, killed or possessed shall be forfeited to the state and shall be counted toward the daily, seasonal, bag, creel and possession limit of the person in possession of, or responsible for, the illegal taking or killing of any wildlife. It is unlawful to take, obtain, purchase, possess, or maintain in captivity, any live wildlife, wild animals, wild birds, game or fur-bearing animals except as provided by this chapter or any rule promulgated thereunder.

(b) Wildlife lawfully taken outside of this state is subject to the same laws and rules as wildlife taken within this state.

(c) Migratory wild birds may be possessed only in accordance with the Migratory Bird Treaty Act, 16 U. S. C. §703, *et seq.*, and its regulations.

(d) The restrictions in this section do not apply to the director or duly authorized agents, who may take or maintain in captivity any wildlife for the purpose of carrying out the provisions of this chapter.

(e) Wildlife, except protected birds, elk, spotted fawn and bear cubs, killed or mortally wounded as a result of being accidentally or inadvertently struck by a motor vehicle may be lawfully possessed if the possessor of the wildlife provides notice of the claim within twelve hours to a relevant law-enforcement agency and obtains a nonhunting game tag within twenty-four hours of possession. The director shall propose administrative policy which addresses the means, methods and administrative procedures for implementing the provisions of this section.

(f) ~~Persons required to deliver wildlife to an official checking station shall,~~ are required to electronically register deer, bear, turkey, wild boar, bobcat, beaver, otter and fisher in accordance with rules promulgated by the director. electronically register the wildlife in lieu of the delivery to an official checking station. “Electronically register”

means submission of all necessary and relevant information to the division, in the manner designated by rule ~~in lieu of delivery of the wildlife to an official checking station~~ governing the electronic registration of wildlife. The director may promulgate rules, pursuant to article three, chapter twenty-nine-a of this code, governing the electronic registration of wildlife: *Provided*, That the rules shall include a procedure for persons who are not required to obtain licenses or permits under section twenty-eight of this article to register wildlife using identification other than a social security number. The rules may use a system of a combination of the last four digits of the social security number, date of birth and last name of the person.

§20-2-21. Reporting beaver and otter pelts taken and tagged.

Each trapper shall ~~present~~ electronically register each beaver and otter, or each pelt, to a game checking station or representative of the division within thirty days after the close of a legal season. ~~A tag game tag number provided by the division shall be~~ issued to the person and recorded in writing with the person's name and address, or on a field tag, and shall be affixed to each beaver and otter or each pelt and remain attached to the animal or pelt until it is processed into commercial fur. A game tag number for each beaver shall be issued to the person and recorded in writing with the person's name and address and either attached to each beaver or pelt, or the tag number shall be retained by the person in possession of the beavers. The game tag numbers shall remain attached to the animal or pelt or retained by the owner until it is processed into commercial fur.

§20-2-22. Tagging, removing, transporting and reporting bear, deer, wild boar and wild turkey.

(a) Each person killing a bear, deer, wild boar or wild turkey found in a wild state shall either attach a completed field tag to the animal or remain with the animal and have upon his or her person a completed field tag before removing the carcass in any manner from where it was killed.

(b) While transporting the carcass of a bear, deer, wild boar or wild turkey from where it was killed, each person shall either attach a completed field tag to the animal or have upon his or her person a completed field tag.

(c) Upon arriving at a residence, camp, hunting lodge, vehicle or vessel each person shall attach a field tag to the killed bear, deer, wild boar or wild turkey. ~~The field tag shall remain on the carcass until it is retagged with a game tag by a natural resources police officer or an official checking station the animal is electronically registered. The game tag shall remain on the carcass until it is dressed for consumption~~ A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag, and shall remain on the carcass until it is dressed for consumption. The game tag number shall remain on the skin or hide until it is tanned or mounted.

(d) If a person who does not possess a field tag kills a bear, deer, wild boar or wild turkey, he or she shall make a tag. The field tag shall bear the name, address and, if applicable, the license number of the hunter and the time, date and county of killing.

~~(e) The carcass of a wild turkey shall be delivered to a natural resources police officer or an official checking station for checking and retagging before it is either skinned or transported beyond the boundaries of the county adjacent to that in which the kill was made.~~

~~(f) The fresh skin and head or carcass of the deer shall be delivered to a natural resources police officer or an official checking station for checking and retagging before it is transported beyond the boundaries of the county adjacent to that in which the kill was made.~~

~~(g)~~(e) A person who kills a bear shall treat the carcass and remains in accordance with the provisions of section twenty-two-a of this article.

~~(h)~~(f) For each violation of this section a person is subject to the penalties provided in this article.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 338, Compiling and maintaining Central State Mental Health Registry; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section three, following line thirty-six, by adding a new subsection designated as (g) to read as follows:

“(g) To the extent the central state mental health registry contains the names of any children under fourteen years of age on the effective date of this article, the Administrator of the West Virginia Supreme Court of Appeals shall take whatever steps are necessary to remove those individuals from the central state mental health registry.”

The bill was then ordered to third reading.

S. B. 416, Allowing terminally ill patients access to investigational products; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with amendments pending, and the rule was suspended to permit the consideration of the amendments on that reading.

Com. Sub. for S. B. 429, Adopting two National Association of Insurance Commissioners’ models to protect enrollees and general public and permit greater oversight; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 484, Relating to reemployment rights of military personnel; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 597, Relating generally to Health Care Authority; on second reading, coming up in regular order, was read a second time.

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

“That §16-29B-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a two new sections, designated §16-29B-28 and §16-29B-29, all to read as follows:

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-26. Exemptions from antitrust laws.

Actions of the board shall be exempt from antitrust action ~~as provided in section five, article eighteen, chapter forty-seven of this code under state and federal antitrust laws.~~ Any actions of hospitals and health care providers under the board’s jurisdiction, when made in compliance with orders, directives, rules, approvals or regulations issued or promulgated by the board, shall likewise be exempt. ~~Health care providers shall be subject to the antitrust guidelines of the federal trade commission and the department of justice.~~

It is the intention of the Legislature that this chapter shall also immunize cooperative agreements approved and subject to supervision by the authority and activities conducted pursuant thereto from challenge or scrutiny under both state and federal antitrust law: Provided, That a cooperative agreement that is not approved and subject to supervision by the authority shall not have such immunity.

§16-29B-28. Review of Cooperative agreements.

(a) Definitions. — As used in this section the following terms have the following meanings:

(1) ‘Academic medical center’ means an accredited medical school, one or more faculty practice plans affiliated with the medical school or one or more affiliated hospitals which meet the requirements set forth in 42 C. F. R. 411.355(e).

(2) ‘Cooperative agreement’ means an agreement between a qualified hospital which is a member of an academic medical center and one or more other hospitals or other health care providers. The agreement shall provide for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals or other health care providers.

(3) ‘Commercial health plan’ means a plan offered by any third party payor that negotiates with a party to a cooperative agreement with respect to patient care services rendered by health care providers.

(4) ‘Health care provider’ means the same as that term is defined in section three of this article.

(5) ‘Teaching hospital’ means a hospital or medical center that provides clinical education and training to future and current health professionals whose main building or campus is located in the same county as the main campus of a medical school operated by a state university.

(6) ‘Qualified hospital’ means a teaching hospital, which meets the requirements of 42 C. F. R. 411.355(e) and which has entered into a cooperative agreement with one or more hospitals or other health care providers but is not a critical access hospital for purposes of this section.

(b) Findings. —

(1) The Legislature finds that the state’s schools of medicine, affiliated universities and teaching hospitals are critically important in

the training of physicians and other healthcare providers who practice health care in this state. They provide access to healthcare and enhance quality healthcare for the citizens of this state.

(2) A medical education is enhanced when medical students, residents and fellows have access to modern facilities, state of the art equipment and a full range of clinical services and that, in many instances, the accessibility to facilities, equipment and clinical services can be achieved more economically and efficiently through a cooperative agreement among a teaching hospital and one or more hospitals or other health care providers.

(c) *Legislative purpose.* — The Legislature encourages cooperative agreements if the likely benefits of such agreements outweigh any disadvantages attributable to a reduction in competition. When a cooperative agreement, and the planning and negotiations of cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws the Legislature believes it is in the state's best interest to supplant such laws with regulatory approval and oversight by the Health Care Authority as set out in this article. The authority has the power to review, approve or deny cooperative agreements, ascertain that they are beneficial to citizens of the state and to medical education, to ensure compliance with the provisions of the cooperative agreements relative to the commitments made by the qualified hospital and conditions imposed by the Health Care Authority.

(d) *Cooperative Agreements.* —

(1) A hospital which is a member of an academic medical center may negotiate and enter into a cooperative agreement with other hospitals or health care providers in the state:

(A) In order to enhance or preserve medical education opportunities through collaborative efforts and to ensure and maintain the economic viability of medical education in this state and to achieve the goals hereinafter set forth; and

(B) When the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreement.

(2) The goal of any cooperative agreement would be to:

(A) Improve access to care;

(B) Advance health status;

(C) Target regional health issues;

(D) Promote technological advancement;

(E) Ensure accountability of the cost of care;

(F) Enhance academic engagement in regional health;

(G) Preserve and improve medical education opportunities;

(H) Strengthen the workforce for health-related careers; and

(I) Improve health entity collaboration and regional integration, where appropriate.

(3) A qualified hospital located in this state may submit an application for approval of a proposed cooperative agreement to the authority. The application shall state in detail the nature of the proposed arrangement including the goals and methods for achieving:

(A) Population health improvement;

(B) Improved access to health care services;

(C) Improved quality;

(D) Cost efficiencies;

(E) Ensuring affordability of care;

(F) Enhancing and preserving medical education programs; and

(G) Supporting the authority's goals and strategic mission, as applicable.

(4) (A) If the cooperative agreement involves a combination of hospitals through merger, consolidation or acquisition, the qualified hospital must have been awarded a certificate of need for the project by the authority, as set forth in article two-d of this chapter prior to submitting an application for review of a cooperative agreement.

(B) In addition to a certificate of need, the authority may also require that an application for review of a cooperative agreement as provided in this section be submitted and approved prior to the finalization of the cooperative agreement, if the cooperative agreement involves the merger, consolidation or acquisition of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital, and the authority shall have determined that combination is likely to produce anti-competitive effects due to a reduction of competition. Any such determination shall be communicated to the parties to the cooperative agreement within seven days from approval of a certificate of need for the project.

(C) In reviewing an application for cooperative agreement, the authority shall give deference to the policy statements of the Federal Trade Commission.

(D) If an application for a review of a cooperative agreement is not required by the authority, the parties to the agreement may then complete the transaction following a final order by the authority on the certificate of need as set forth in article two-d of this code. The qualified hospital may apply to the authority for approval of the cooperative agreement either before or after the finalization of the cooperative agreement.

(E) A party who has received a certificate of need prior to the enactment of this provision during the 2016 regular session of the

Legislature may apply for approval of a cooperative agreement whether or not the transaction contemplated thereby has been completed.

(F) The complete record in the certificate of need proceeding shall be part of the record in the proceedings under this section and information submitted by an applicant in the certificate of need proceeding need not be duplicated in proceedings under this section.

(e) Procedure for review of cooperative agreements. —

(1) Upon receipt of an application, the authority shall determine whether the application is complete. If the authority determines the application is incomplete, it shall notify the applicant in writing of additional items required to complete the application. A copy of the complete application shall be provided by the parties to the Office of the Attorney General simultaneous with the submission to the authority. If an applicant believes the materials submitted contain proprietary information that is required to remain confidential, such information must be clearly identified and the applicant shall submit duplicate applications, one with full information for the authority's use and one redacted application available for release to the public.

(2) The authority shall upon receipt of a completed application, publish notification of the application on its website as well as provide notice of such application placed in the State Register. The public may submit written comments regarding the application within ten days following publication. Following the close of the written comment period, the authority shall review the application as set forth in this section. Within thirty days of the receipt of a complete application the authority may:

(i) Issue a certificate of approval which shall contain any conditions the authority finds necessary for the approval;

(ii) Deny the application; or

(iii) Order a public hearing if the authority finds it necessary to make an informed decision on the application.

(3) The authority shall issue a written decision within seventy-five days from receipt of the completed application. The authority may request additional information in which case they shall have an additional fifteen days following receipt of the supplemental information to approve or deny the proposed cooperative agreement.

(4) Notice of any hearing shall be sent by certified mail to the applicants and all persons, groups or organizations who have submitted written comments on the proposed cooperative agreement as well as to all persons, groups or organizations designated as affected parties in the certificate of need proceeding. Any individual, group or organization who submitted written comments regarding the application and wishes to present evidence at the public hearing shall request to be recognized as an affected party as set forth in article two-d of this chapter. The hearing shall be held no later than forty-five days after receipt of the application. The authority shall publish notice of the hearing on the authority's website fifteen days prior to the hearing. The authority shall additionally provide timely notice of such hearing in the State Register.

(5) Parties may file a motion for an expedited decision.

(f) *Standards for review of cooperative agreements.* —

(1) In its review of an application for approval of a cooperative agreement submitted pursuant to this section, the authority may consider the proposed cooperative agreement and any supporting documents submitted by the applicant, any written comments submitted by any person and any written or oral comments submitted, or evidence presented, at any public hearing.

(2) The authority shall consult with the Attorney General of this state regarding his or her assessment of whether or not to approve the proposed cooperative agreement.

(3) The authority shall approve a proposed cooperative agreement and issue a certificate of approval if it determines, with the written

concurrence of the Attorney General, that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement.

(4) In evaluating the potential benefits of a proposed cooperative agreement, the authority shall consider whether one or more of the following benefits may result from the proposed cooperative agreement:

(A) Enhancement and preservation of existing academic and clinical educational programs;

(B) Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse provided to citizens served by the authority;

(C) Enhancement of population health status consistent with the health goals established by the authority;

(D) Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

(E) Gains in the cost-efficiency of services provided by the hospitals involved;

(F) Improvements in the utilization of hospital resources and equipment;

(G) Avoidance of duplication of hospital resources;

(H) Participation in the state Medicaid program; and

(I) Constraints on increases in the total cost of care.

(5) The authority's evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed

cooperative agreement shall include, but need not be limited to, the following factors:

(A) The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(B) The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;

(C) The extent of any likely adverse impact on patients in the quality, availability and price of health care services; and

(D) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

(6) (A) After a complete review of the record, including, but not limited to, the factors set out in subsection (e) of this section, any commitments made by the applicant or applicants and any conditions imposed by the authority, if the authority determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement, the authority shall approve the proposed cooperative agreement.

(B) The authority may reasonably condition approval upon the parties' commitments to:

(i) Achieving improvements in population health;

(ii) Access to health care services;

(iii) Quality and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement; and

(iv) Any additional commitments made by the parties to the cooperative agreement.

Any conditions set by the authority shall be fully enforceable by the authority. No condition imposed by the authority, however, shall limit or interfere with the right of a hospital to adhere to religious or ethical directives established by its governing board.

(7) The authority's decision to approve or deny an application shall constitute a final order or decision pursuant to the West Virginia Administrative Procedure Act (§ 29A-1-1, *et seq.*). The authority may enforce commitments and conditions imposed by the authority in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(g) Enforcement and supervision of cooperative agreements. — The authority shall enforce and supervise any approved cooperative agreement for compliance.

(1) The authority is authorized to promulgate legislative rules in furtherance of this section. Additionally, the authority shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to accomplish the goals of this section. These rules shall include, at a minimum:

(A) An annual report by the parties to a cooperative agreement. This report is required to include:

(i) Information about the extent of the benefits realized and compliance with other terms and conditions of the approval;

(ii) A description of the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of commitments made by the parties or terms imposed by the authority as a condition for approval of the cooperative agreement;

(iii) Information relating to price, cost, quality, access to care and population health improvement;

(iv) Disclosure of any reimbursement contract between a party to a cooperative agreement approved pursuant to this section and a commercial health plan or insurer entered into subsequent to the finalization of the cooperative agreement. This shall include the amount, if any, by which an increase in the average rate of reimbursement exceeds, with respect to inpatient services for such year, the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services as published by the Bureau of Labor Statistics for such year and, with respect to outpatient services, the increase in the Consumer Price Index for all Urban Consumers for hospital outpatient services for such year; and

(v) Any additional information required by the authority to ensure compliance with the cooperative agreement.

(B) If an approved application involves the combination of hospitals, disclosure of the performance of each hospital with respect to a representative sample of quality metrics selected annually by the authority from the most recent quality metrics published by the Centers for Medicare and Medicaid Services. The representative sample shall be published by the authority on its website.

(C) A procedure for a corrective action plan where the average performance score of the parties to the cooperative agreement in any calendar year is below the fiftieth percentile for all United States hospitals with respect to the quality metrics as set forth in (B) of this subsection. The corrective action plan is required to:

(i) Be submitted one hundred twenty days from the commencement of the next calendar year; and

(ii) Provide for a rebate to each commercial health plan or insurer with which they have contracted an amount not in excess of one percent of the amount paid to them by such commercial health plan or insurer for hospital services during such two-year period if in any two consecutive-year period the average performance score is below the fiftieth percentile for all United States hospitals. The amount to be rebated shall be reduced by the amount of any reduction in reimbursement which may be imposed by a commercial health plan or insurer under a quality incentive or awards program in which the hospital is a participant.

(D) A procedure where if the excess above the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services or hospital outpatient services is two percent or greater the authority may order the rebate of the amount which exceeds the respective indices by two percent or more to all health plans or insurers which paid such excess unless the party provides written justification of such increase satisfactory to the authority taking into account case mix index, outliers and extraordinarily high cost outpatient procedure utilizations.

(E) The ability of the authority to investigate, as needed, to ensure compliance with the cooperative agreement.

(F) The ability of the authority to take appropriate action, including revocation of a certificate of approval, if it determines that:

(i) The parties to the agreement are not complying with the terms of the agreement or the terms and conditions of approval;

(ii) The authority's approval was obtained as a result of an intentional material misrepresentation;

(iii) The parties to the agreement have failed to pay any required fee; or

(iv) The benefits resulting from the approved agreement no longer outweigh the disadvantages attributable to the reduction in competition resulting from the agreement.

(G) If the authority determines the parties to an approved cooperative agreement have engaged in conduct that is contrary to state policy or the public interest, including the failure to take action required by state policy or the public interest, the authority may initiate a proceeding to determine whether to require the parties to refrain from taking such action or requiring the parties to take such action, regardless of whether or not the benefits of the cooperative agreement continue to outweigh its disadvantages. Any determination by the authority shall be final. The authority is specifically authorized to enforce its determination in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(H) Fees as set forth in subsection (h).

(2) Until the promulgation of the emergency rules, the authority shall monitor and regulate cooperative agreements to ensure that their conduct is in the public interest and shall have the powers set forth in subdivision (1) of this subsection, including the power of enforcement set forth in paragraph (G), subdivision (1) of this subsection.

(h) Fees. — The authority may set fees for the approval of a cooperative agreement. These fees shall be for all reasonable and actual costs incurred by the authority in its review and approval of any cooperative agreement pursuant to this section. These fees shall not exceed \$75,000. Additionally, the authority may assess an annual fee not to exceed \$75,000 for the supervision of any cooperative agreement approved pursuant to this section and to support the implementation and administration of the provisions of this section.

(i) Miscellaneous provisions. —

(1) (A) An agreement entered into by a hospital party to a cooperative agreement and any state official or state agency imposing

certain restrictions on rate increases shall be enforceable in accordance with its terms and may be considered by the authority in determining whether to approve or deny the application. Nothing in this chapter shall undermine the validity of any such agreement between a hospital party and the Attorney General entered before the effective date of this legislation.

(B) At least ninety days prior to the implementation of any increase in rates for inpatient and outpatient hospital services and at least sixty days prior to the execution of any reimbursement agreement with a third party payor, a hospital party to a cooperative agreement involving the combination of two or more hospitals through merger, consolidation or acquisition which has been approved by the authority shall submit any proposed increase in rates for inpatient and outpatient hospital services and any such reimbursement agreement to the Office of the West Virginia Attorney General together with such information concerning costs, patient volume, acuity, payor mix and other data as the Attorney General may request. Should the Attorney General determine that the proposed rates may inappropriately exceed competitive rates for comparable services in the hospital's market area which would result in unwarranted consumer harm or impair consumer access to health care, the Attorney General may request the authority to evaluate the proposed rate increase and to provide its recommendations to the Office of the Attorney General. The Attorney General may approve, reject or modify the proposed rate increase and shall communicate his or her decision to the hospital no later than 30 days prior to the proposed implementation date. The hospital may then only implement the increase approved by the Attorney General. Should the Attorney General determine that a reimbursement agreement with a third party payor includes pricing terms at anti-competitive levels, the Attorney General may reject the reimbursement agreement and communicate such rejection to the parties thereto together with the rationale therefor in a timely manner.

(2) The authority shall maintain on file all cooperative agreements the authority has approved, including any conditions imposed by the authority.

(3) Any party to a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the authority thirty days after termination.

(4) No hospital which is a party to a cooperative agreement for which approval is required pursuant to this section may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement until approved by the authority. Additionally, no hospital which is a party to a cooperative agreement may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement for which approval has been revoked or terminated.

(5) By submitting an application for review of a cooperative agreement pursuant to this section, the hospitals or health care providers shall be deemed to have agreed to submit to the regulation and supervision of the authority as provided in this section.

§16-29B-29. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary was reported by the Clerk on page one, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §22-15-2 and §22-15-10 of the Code of West Virginia, 1931, as amended and to amend said code by adding thereto a new section, designated §24-2-1L, to read as follows:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-2. Definitions

Unless the context clearly requires a different meaning, as used in this article the terms:

(1) ‘Agronomic rate’ means the whole sewage sludge application rate, by dry weight, designed:

(A) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop or vegetation on the land; and

(B) To minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

(2) ‘Applicant’ means the person applying for a commercial solid waste facility permit or similar renewal permit and any person related to such person by virtue of common ownership, common management or family relationships as the director may specify, including the following: Spouses, parents and children and siblings.

(3) ‘Approved solid waste facility’ means a solid waste facility or practice which has a valid permit under this article.

(4) ‘Back hauling’ means the practice of using the same container to transport solid waste and to transport any substance or material used as food by humans, animals raised for human consumption or reusable item which may be refilled with any substance or material used as food by humans.

(5) 'Bulking agent' means any material mixed and composted with sewage sludge.

(6) 'Class A facility' means a commercial solid waste facility which handles an aggregate of between ten thousand and thirty thousand tons of solid waste per month. Class A facility includes two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate tons of solid waste handled per month by such landfills exceeds nine thousand nine hundred ninety-nine tons of solid waste per month.

(7) 'Commercial recycler' means any person, corporation or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least seventy percent by weight of the materials coming into the commercial recycling facility.

(8) 'Commercial solid waste facility' means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing or composting of solid wastes created by that person or such person and other persons on a cost-sharing or nonprofit basis and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation and similar applications.

(9) 'Compost' means a humus-like material resulting from aerobic, microbial, thermophilic decomposition of organic materials.

(10) 'Composting' means the aerobic, microbial, thermophilic decomposition of natural constituents of solid waste to produce a stable, humus-like material.

(11) 'Commercial composting facility' means any solid waste facility processing solid waste by composting, including sludge

composting, organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such person and other persons on a cost-sharing or nonprofit basis and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.

(12) ‘Cured compost’ or ‘finished compost’ means compost which has a very low microbial or decomposition rate which will not reheat or cause odors when put into storage and that has been put through a separate aerated curing cycle stage of thirty to sixty days after an initial composting cycle or compost which meets all regulatory requirements after the initial composting cycle.

(13) ‘Department’ means the Department of Environmental Protection.

(14) ‘Energy recovery incinerator’ means any solid waste facility at which solid wastes are incinerated with the intention of using the resulting energy for the generation of steam, electricity or any other use not specified herein.

(15) ‘Incineration technologies’ means any technology that uses controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials, regardless of whether the purpose is processing, disposal, electric or steam generation or any other method by which solid waste is incinerated.

(16) ‘Incinerator’ means an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

(17) ‘Landfill’ means any solid waste facility for the disposal of solid waste on or in the land for the purpose of permanent disposal.

Such facility is situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located.

(18) ‘Materials recovery facility’ means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

(19) ‘Mature compost’ means compost which has been produced in an aerobic, microbial, thermophilic manner and does not exhibit phytotoxic effects.

(20) ‘Mixed solid waste’ means solid waste from which materials sought to be reused or recycled have not been source-separated from general solid waste.

(21) ‘Mixed waste processing facility’ means any solid waste facility at which materials are recovered from mixed solid waste through manual or mechanical means for purposes of reuse, recycling or composting.

(22) ‘Municipal solid waste incineration’ means the burning of any solid waste collected by any municipal or residential solid waste disposal company.

(23) ‘Oil and natural gas solid waste’ means waste associated with the exploration, development, production, storage or recovery of crude oil and natural gas, including drilling fluids and produced waters.

~~(24)~~(23) ‘Open dump’ means any solid waste disposal which does not have a permit under this article, or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

~~(25)~~(24) ‘Person’ or ‘persons’ means any industrial user, public or private corporation, institution, association, firm or company organized

or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

~~(26)~~~~(25)~~ ‘Publicly owned treatment works’ means any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity which processes raw domestic, industrial or municipal sewage by any artificial or natural processes in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort or property of any of the inhabitants of this state before the discharge of the plant effluent into any of the waters of this state, and which produces sewage sludge.

~~(27)~~~~(26)~~ ‘Recycling facility’ means any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical or thermal transformation of solid waste occurs: *Provided*, That mixed waste recovery facilities, sludge processing facilities and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of this article, article fifteen-a of this chapter and article four, chapter twenty-two-c of this code.

~~(28)~~~~(27)~~ ‘Sewage sludge’ means solid, semisolid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum or solids removed in primary, secondary or advanced wastewater treatment processes and a material derived from sewage sludge. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator.

~~(29)~~~~(28)~~ ‘Secretary’ means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to article one of this chapter.

~~(30)(29)~~ (30) 'Sewage sludge processing facility' is a solid waste facility that processes sewage sludge for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes include, but are not limited to, composting, lime stabilization, thermophilic, microbial and anaerobic digestion.

~~(31)(30)~~ (31) 'Sludge' means any solid, semisolid, residue or precipitate, separated from or created by a municipal, commercial or industrial waste treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar origin.

~~(32)(31)~~ (32) 'Solid waste' means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration; sludge from a waste treatment plant; water supply treatment plant or air pollution control facility; and other discarded materials, including offensive or unsightly matter, solid, liquid, semisolid or contained liquid or gaseous material resulting from industrial, commercial, mining or community activities but does not include solid or dissolved material in sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under article five-a of this chapter, or source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or byproduct material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under article five-e of this chapter or refuse, slurry, overburden or other wastes or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources placed or disposed of at a facility which is regulated under chapter twenty-two, twenty-two-a or twenty-two-b of this code, so long as placement or disposal is in conformance with a permit issued pursuant to such chapters.

~~(33)(32)~~ (33) 'Solid waste disposal' means the practice of disposing of solid waste including placing, depositing, dumping or throwing or causing any solid waste to be placed, deposited, dumped or thrown.

~~(34)~~~~(33)~~ ‘Solid waste disposal shed’ means the geographical area which the solid waste management board designates and files in the state register pursuant to section eight, article twenty-six, chapter sixteen of this code.

~~(35)~~~~(34)~~ ‘Solid waste facility’ means any system, facility, land, contiguous land, improvements on the land, structures or other appurtenances or methods used for processing, recycling or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with section twenty of this article. Such facility shall be deemed to be situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located: *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of article twenty-three, chapter seventeen of this code, is not a solid waste facility.

~~(36)~~~~(35)~~ ‘Solid waste facility operator’ means any person or persons possessing or exercising operational, managerial or financial control over a commercial solid waste facility, whether or not such person holds a certificate of convenience and necessity or a permit for such facility.

~~(37)~~~~(36)~~ ‘Source-separated materials’ means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

§22-15-10. Prohibitions; permits required.

(a) Open dumps are prohibited and it is unlawful for any person to create, contribute to or operate an open dump or for any landowner to allow an open dump to exist on the landowner's property unless that open dump is under a compliance schedule approved by the director. Such compliance schedule shall contain an enforceable sequence of actions leading to compliance and shall not exceed two years. Open

dumps operated prior to the first day of April, one thousand nine hundred eighty-eight, by a landowner or tenant for the disposal of solid waste generated by the landowner or tenant at his or her residence or farm are not a violation of this section if such open dump did not constitute a violation of law on the first day of January, one thousand nine hundred eighty-eight, and unauthorized dumps which were created by unknown persons do not constitute a violation of this section: *Provided*, That no person may contribute additional solid waste to any such dump after the first day of April, one thousand nine hundred eighty-eight, except that the owners of the land on which unauthorized dumps have been or are being made are not liable for such unauthorized dumping unless such landowners refuse to cooperate with the division in stopping such unauthorized dumping.

(b) It is unlawful for any person, unless the person holds a valid permit from the division to install, establish, construct, modify, operate or abandon any solid waste facility. All approved solid waste facilities shall be installed, established, constructed, modified, operated or abandoned in accordance with this article, plans, specifications, orders, instructions and rules in effect.

(c) Any permit issued under this article shall be issued in compliance with the requirements of this article, its rules and article eleven of this chapter and the rules promulgated thereunder, so that only a single permit is required of a solid waste facility under these two articles. Each permit issued under this article shall have a fixed term not to exceed five years: *Provided*, That the director may administratively extend a permit beyond its five-year term if the approved solid waste facility is in compliance with this article, its rules and article eleven of this chapter and the rules promulgated thereunder: *Provided, however*, That such administrative extension may not be for more than one year. Upon expiration of a permit, renewal permits may be issued in compliance with rules promulgated by the director.

(d) For existing solid waste facilities which formerly held division of health permits which expired by law and for which complete permit

applications for new permits pursuant to this article were submitted as required by law, the division may enter an administrative order to govern solid waste activities at such facilities, which may include a compliance schedule, consistent with the requirements of the division's solid waste management rules, to be effective until final action is taken to issue or deny a permit for such facility pursuant to this article, or until further order of the division.

(e) No person may dispose in the state of any solid waste in a manner which endangers the environment or the public health, safety or welfare as determined by the director: *Provided*, That the carcasses of dead animals may be disposed of in any solid waste facility or in any other manner as provided for in this code. Upon request by the director, the commissioner of the bureau of public health shall provide technical advice concerning the disposal of solid waste or carcasses of dead animals within the state.

(f) A commercial solid waste facility shall not discriminate in favor of or against the receipt of any waste otherwise eligible for disposal at the facility based on its geographic origin.

(g) In addition to all the requirements of this article and the rules promulgated hereunder, a permit to construct a new commercial solid waste facility or to expand the spatial area of an existing facility, may not be issued unless the public service commission has granted a certificate of need, as provided in section one-c, article two, chapter twenty-four of this code. If the director approves a permit or permit modification, the certificate of need shall become a part of the permit and all conditions contained in the certificate of need shall be conditions of the permit and may be enforced by the division in accordance with the provisions of this article. If the director approves a permit or permit modification, the certificate of need shall become a part of the permit and all conditions contained in the certificate of need shall be conditions of the permit and may be enforced by the division in accordance with the provisions of this article: *Provided*, That the provisions of this subsection do not apply to materials recovery

facilities, mixed waste processing facilities or oil and natural gas solid waste as defined by chapter twenty-two, article fifteen, section two of this code, except within a thirty-five mile radius of a facility sited in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016.

(h) The director shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code which reflect the purposes as set forth in this section.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-11. Commission jurisdiction does not extend to materials recovery facilities, mixed waste processing facilities, and oil and natural gas solid waste disposal.

(a) Notwithstanding any other provision of this code, the jurisdiction of the commission does not extend to materials recovery facilities, mixed waste processing facilities or disposal of oil and natural gas solid waste as defined by chapter twenty-two, article fifteen, section two of this code, except within a thirty-five mile radius of a facility sited in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016: *Provided*, That nothing in this chapter shall affect the requirements of section five, article two and section three, article three of chapter twenty-four-a of this code.”

On motion of Delegate Cowles, the bill was postponed one day.

S. B. 627, Permitting physician to decline prescribing controlled substance; on second reading, coming up in regular order, was read a second time.

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

“That §30-3A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §55-7-23 of said code be amended and reenacted, all to read as follows:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 3A. MANAGEMENT OF INTRACTABLE PAIN.

§30-3A-2. Limitation on disciplinary sanctions or criminal punishment related to management of pain.

(a) A physician is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for prescribing, administering or dispensing pain-relieving controlled substances for the purpose of alleviating or controlling pain if:

(1) In the case of a dying patient experiencing pain, the physician practices in accordance with an accepted guideline as defined in section one of this article and discharges his or her professional obligation to relieve the dying patient’s pain and promote the dignity and autonomy of the dying patient; or

(2) In the case of a patient who is not dying and is experiencing pain, the physician discharges his or her professional obligation to relieve the patient’s pain, if the physician can demonstrate by reference to an accepted guideline that his or her practice substantially complied with that accepted guideline. Evidence of substantial compliance with an accepted guideline may be rebutted only by the testimony of a clinical expert. Evidence of noncompliance with an accepted guideline is not sufficient alone to support disciplinary or criminal action.

(b) A health care provider, as defined in section two, article seven-b, chapter fifty-five of this code, with prescriptive authority is

not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for declining to prescribe, or declining to continue to prescribe, any controlled substance to a patient which the health care provider with prescriptive authority is treating if the health care provider with prescriptive authority in the exercise of reasonable prudent judgment believes the patient is misusing the controlled substance in an abusive manner or unlawfully diverting a controlled substance legally prescribed for their use.

(b) (c) A licensed registered professional nurse is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for administering pain-relieving controlled substances to alleviate or control pain, if administered in accordance with the orders of a licensed physician.

(c) (d) A ~~registered~~ licensed pharmacist is not subject to disciplinary sanctions by a licensing board or criminal punishment by the state for dispensing a prescription for a pain-relieving controlled substance to alleviate or control pain, if dispensed in accordance with the orders of a licensed physician.

(d) (e) For purposes of this section, the term ‘disciplinary sanctions’ includes both remedial and punitive sanctions imposed on a licensee by a licensing board, arising from either formal or informal proceedings.

(e) (f) The provisions of this section apply to the treatment of all patients for pain, regardless of the patient’s prior or current chemical dependency or addiction. The board may develop and issue policies or guidelines establishing standards and procedures for the application of this article to the care and treatment of persons who are chemically dependent or addicted.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-23. Prescription drugs and medical devices; limiting health care providers' liability exposure.

(a) No health care provider, as defined in section two, article seven-b of this chapter, is liable to a patient or third party for injuries sustained as a result of the ingestion of a prescription drug or use of a medical device that was prescribed or used by the health care provider in accordance with instructions approved by the U. S. Food and Drug Administration regarding the dosage and administration of the drug, the indications for which the drug should be taken or device should be used, and the contraindications against taking the drug or using the device: *Provided*, That the provisions of this section ~~shall do~~ not apply if: (1) The health care provider had actual knowledge that the drug or device was inherently unsafe for the purpose for which it was prescribed or used; or (2) a manufacturer of ~~such the~~ drug or device publicly announces changes in the dosage or administration of ~~such the~~ drug or changes in contraindications against taking the drug or using the device and the health care provider fails to follow ~~such the~~ publicly announced changes and ~~such the~~ failure proximately caused or contributed to the plaintiff's injuries or damages.

(b) A health care provider with prescriptive authority is not liable to a patient or third party for declining to prescribe, or declining to continue to prescribe, any controlled substance to a patient which the health care provider with prescriptive authority is treating if the health care provider with prescriptive authority in the exercise of reasonable prudent judgment believes the patient is misusing the controlled substance in an abusive manner or unlawfully diverting a controlled substance legally prescribed for their use.

~~(b)~~ (c) The provisions of this section are not intended to create a new cause of action.”

Delegate Shaffer moved to amend the amendment on page three, section twenty-three, lines fourteen through twenty, by striking out subsections (b) and (c) and inserting in lieu thereof the following:

“(b) This section does not create a private cause of action against a healthcare provider for declining to prescribe, or declining to continue to prescribe, any controlled substance to a patient which the provider is treating, for harm occurring to the patient resulting from the provider’s medical judgment when he or she believed the patient was misusing the controlled substance in an abusive manner or unlawfully diverting a controlled substance for patient’s use, unless the provider failed to exercise reasonable care.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 435**), and there were—yeas 32, nays 59, absent and not voting 9, with the yeas and absent and not voting being as follows:

Yeas: Bates, Boggs, Byrd, Campbell, Caputo, Eldridge, Ellington, Fast, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Kurcaba, Longstreth, Lynch, Manchin, Miley, Morgan, Moye, Perdue, Perry, Reynolds, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Walters and P. White.

Absent and Not Voting: Deem, A. Evans, Ferro, Flanigan, Hamilton, Kessinger, Lane, Moore and Romine.

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

The amendment offered by the Committee on the Judiciary was then adopted.

The bill was then ordered to third reading.

First Reading

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

S. B. 54, Altering how tax is collected on homeowners' associations,

Com. Sub. for S. B. 202, Authorizing Department of Commerce promulgate legislative rules,

S. B. 259, Amending Unfair Trade Practices Act,

S. B. 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program,

S. B. 384, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation,

S. B. 459, Requiring county board of education to pay tuition to Mountaineer Challenge Academy,

Com. Sub. for S. B. 468, Allowing lender charge and receive interest on rescindable loan during rescission period,

Com. Sub. for S. B. 493, Allowing creation of self-settled spendthrift trusts,

S. B. 505, Exempting certain uses of field gas from motor fuel excise taxes,

S. B. 516, Relating to registration for selective service,

Com. Sub. for S. B. 545, Relating to asbestos abatement on oil and gas pipelines,

Com. Sub. for S. B. 595, Relating to retirement credit for members of WV National Guard,

Com. Sub. for S. B. 599, Relating generally to Uniform Unclaimed Property Act,

S. B. 613, Defining total capital for purposes of calculating state-chartered bank's lending limit,

Com. Sub. for S. B. 614, Conforming statute with court interpretation by replacing "unconscionable" with "fraudulent" when referring to conduct,

Com. Sub. for S. B. 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank Act,

Com. Sub. for S. B. 634, Creating William R. Laird IV Second Chance Driver's License Act,

And,

Com. Sub. for S. B. 691, Modifying certain air pollution standards.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2615, West Virginia Small Business Capital Act.

A message from the Senate, by

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

Com. Sub. for H. B. 2801, Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas.

A messages from the Senate, by

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

Com. Sub. for H. B. 2823, Eliminating the street and interurban and electric railways tax.

A message from the Senate, by

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

Com. Sub. for H. B. 2852, Relating to legalizing and regulating the sale and use of fireworks.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2016, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4209, Relating generally to health care provider taxes.

A message from the Senate, by

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

Com. Sub. for H. B. 4225, Relating to patriotic displays at public buildings.

A message from the Senate, by

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

Com. Sub. for H. B. 4322, Expanding the Learn and Earn Program.

A message from the Senate, by

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

Com. Sub. for H. B. 4377, Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4433, Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees.

A message from the Senate, by

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

Com. Sub. for H. B. 4520, Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public.

A message from the Senate, by

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

H. B. 4617, Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 4705, Relating to adding an additional type of West Virginia source income of nonresident individual.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Carmichael, Ashley and Kessler.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Ferns, Boso and Woelfel.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 1 — “Urging Congress to propose the regulation freedom amendment to the United States Constitution.”

Whereas, The Legislature is deeply concerned about the economic impact of federal regulations imposed upon West Virginia and the

other states without adequate legislative oversight; and states without adequate legislative oversight; and

Whereas, The growth and abuse of federal regulatory authority threatens our constitutional liberties, including those guaranteed by the Bill of Rights of our Constitution; and Whereas, The production of coal is critically important to West Virginia and the United States of America, to the economy of West Virginia and of the nation, and to the way of life of the citizens of West Virginia and to the survival of the inhabitants of West Virginia, of the United States of America and of the world; and

Whereas, The United States Environmental Protection Agency (EPA) has proposed and implemented a number of regulations in recent years that have crippled coal production in West Virginia and the United States; and

Whereas, The EPA has expanded dramatically its jurisdiction and authority, in ways that are neither necessary or advisable and in ways that were never contemplated by the Congress of the United States when it enacted the Clean Air Act; and

Whereas, This unwarranted expansion of federal jurisdiction and authority by the EPA is extremely detrimental to the continuation of normal mining activities in West Virginia and other states and, ultimately, the energy supply for the entire nation; and

Whereas, The growth and abuse of federal regulatory authority threatens our Constitutional liberties, including those guaranteed by the Bill of Rights in the first, second, fourth and fifth amendments of the United States Constitution; and

Whereas, Federal regulators, such as the EPA, must be more accountable to elected representatives of the people and not immune from such accountability; and

Whereas, The United States House of Representatives has passed with bipartisan support the Regulations from the Executive in Need of

Scrutiny Act (REINS ACT) to require that Congress approve major new federal regulations before they can take effect; and

Whereas, Even if enacted, a law may be repealed or waived by a future Congress and President; and

Whereas, An amendment to the United States Constitution does not require the President's approval and cannot be waived by a future Congress and President; and

Whereas, The proposed Regulation Freedom Amendment to the U.S. Constitution would require Congress to approve major new federal regulations as follows: One quarter of the Members of the U. S. House or the U.S. Senate transmit to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House and Senate to adopt that regulation; and

Whereas, Fifteen state legislative chambers have now adopted resolutions urging Congress to propose and adopt The Regulation Freedom Amendment; and

Whereas, The American Farm Bureau Federation and the Southern States Energy Board have also resolved to support The Regulation Freedom Amendment; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges the United States Congress to propose and adopt The Regulation Freedom Amendment; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D.C.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

S. C. R. 64 — “Requesting the West Virginia Division of Highways to study the 2015 West Virginia Division of Highways Performance Audit commissioned by the West Virginia Legislature and to report back to the Joint Committee on Government and Finance as to any and all actions taken by the Division of Highways in accordance with the performance audit.”

Whereas, In 2015, the West Virginia Legislature passed H.B. 2008, which provided for an independent performance audit of the Division of Highways; and

Whereas, The Joint Committee on Government and Finance commissioned the accounting firm of Deloitte & Touche, LLP, to conduct a performance audit on the Division of Highways for fiscal years 2013, 2014 and 2015 in accordance with the provisions of W.Va. Code §17-2A-6a; and

Whereas, Deloitte & Touche, LLP, presented to the Joint Committee on Government and Finance, during the January 2016 Interim Committee Meetings, the Performance Audit Final Report; and

Whereas, The 2015 West Virginia Division of Highways Performance Audit identifies efficiencies that have the potential to save the Division of Highways up to \$25 to \$50 million annually; and

Whereas, The 2015 West Virginia Division of Highways Performance Audit identifies a number of efficiencies that are more appropriately implemented by the Division of Highways, rather than through the passage of legislation; and

Whereas, It is the belief of the West Virginia Legislature that fixing the state's deteriorating roads is of the utmost importance; and

Whereas, It is the belief of the West Virginia Legislature that the recommendations of the 2015 West Virginia Division of Highways Performance Audit should be implemented by the Division of Highways as best as possible; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature requests the West Virginia Division of Highways to study the 2015 West Virginia Division of Highways Performance Audit commissioned by the West Virginia Legislature and to report back to the Joint Committee on Government and Finance as to any and all actions taken by the Division of Highways in accordance with the performance audit; and, be it

Further Resolved, That the Division of Highways shall report to the Joint Committee on Government and Finance, prior to the 2017 regular session of the Legislature, as to any recommended efficiencies that have been implemented by the Division; and, be it

Further Resolved, That the Division of Highways shall report to the Joint Committee on Government and Finance, prior to the 2017 regular session of the Legislature, as to any recommended efficiencies that the Division believes it can and will be implementing in the future; and, be it

Further Resolved, That the Division of Highways shall report to the Joint Committee on Government and Finance, prior to the 2017 regular session of the Legislature, as to any recommended efficiencies that the Division cannot implement without further legislative action; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the 2017 regular session of the Legislature on the findings of the review performed by the Division of Highways with

drafts of any legislation necessary to effectuate the recommendations of the 2015 West Virginia Division of Highways Performance Audit.

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

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 291, Law enforcement use of unmanned aircraft systems,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 702, Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing estate.

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 602, Relating to Patient Injury Compensation Fund,

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

In the absence of objection, reference of the bill (Com. Sub. for S. B. 602) to the Committee on Finance was abrogated.

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

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

On motion for leave, a resolution was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegates Waxman, Ellington, Summers, B. White, Stansbury, Atkinson and Campbell:

H. C. R. 106 — “Requesting the Joint Committee on Government and Finance to study direct primary care.”

Whereas, Direct primary care is primary care offered directly to the consumer without insurance administration, incorporating various health care delivery systems that involve direct financial relationships between patients and health care providers; and

Whereas, Direct primary care is intended to remove many of the financial barriers of healthcare, often, there are no insurance co-pays,

deductibles or co-insurance fees thus avoiding the overhead and complexity of maintaining relationships with insurers; and

Whereas, A provision of the Patient Protection Affordable Care Act (PPACA) in Section 1301 (and amendment Section 10104) allows for direct primary care to compete with traditional health insurance options in the mandated health insurance exchange when combined with a low cost high deductible plan; and

Whereas, Direct primary care practices do not typically accept insurance payments, thus avoiding the overhead and complexity of maintaining relationships with insurers; and

Whereas, Because direct primary care payments are typically paid over time, rather than in return for specific services, the economic incentives are such that the long-term health of the patient can be a profitable option for providers while also being an affordable option to patients; and

Whereas, West Virginia currently does not authorize direct primary care; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the potential benefits of authorizing direct primary care in West Virginia as an alternative for those citizens who do not qualify for Medicaid and are unable to afford health insurance; and, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance shall consult with the State Medical Board, the Insurance Commission, the Health Care Authority, medical providers, health insurers and any other relevant groups or entities in gathering and reviewing information regarding direct primary care; and, be it

Further Resolved, That Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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.

The Speaker referred the resolution (H. C. R. 106) to the Committee on Rules.

On motion for leave, a resolution was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegates Ellington, Summers, Atkinson, Householder, Stansbury, B. White and Campbell:

H. C. R. 107 — “Requesting the Joint Committee on Government and Finance to study the civil commitment laws within West Virginia.”

Whereas, Mental health is a state of emotional and psychological well-being in which an individual is able to use his or her cognitive and emotional capabilities, function in society, and meet the ordinary demands of everyday life; and

Whereas, A person struggling with his or her mental health may experience stress, depression, anxiety, relationship problems, grief, addiction, learning disabilities, mood disorders, or other mental illnesses of varying degrees often having to seek professional treatment; and

Whereas, Of West Virginia’s 1.5 million adult residents, 16,000 individuals have schizophrenia, and 32,000 individuals with severe bipolar disorder; and

Whereas, West Virginia had the 14th highest percentage of depression among adults in the nation, significantly higher than the U.S average; and

Whereas, Like every state, West Virginia has civil commitment laws that establish criteria for determining when involuntary treatment is appropriate for individuals with severe mental illness who cannot seek care voluntarily; and

Whereas, A minimum of 50 mental health beds per 100,000 people is considered necessary to provide minimally adequate treatment for individuals with severe mental illness. West Virginia fails to meet this minimum standard with only 14 beds per 100,000 people; and

Whereas, West Virginia incarcerates more individuals with severe mental illness than it hospitalizes; and

Whereas, West Virginia should make active use of the state's civil commitment laws and other available options to provide more timely treatment to individuals in need of treatment for symptoms of psychiatric crisis and reduce the consequences of non-treatment on them, their families and their communities; and

Whereas, Assisted outpatient treatment (AOT) is a court-ordered, community based intervention for individuals with severe mental illness who cannot, on their own, recognize their need for treatment has emerged in the era of disappearing psychiatric hospitals as a less restrictive alternative to hospitalization for individuals with severe mental illness; and

Whereas, The Legislature needs to look at the availability of licensed psychiatrists and therapists within the State who specialize in the treatment of individuals with mental health issues in order to develop and sustain strong in-home, community mental health care and assisted outpatient treatment (AOT) in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the state of mental health in West Virginia and the impact that it has on its citizens and their ability to be productive and sustainable members of this state thus improving their quality of life; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on findings, conclusions and recommendations, together with drafts of any necessary legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation to be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolution (H. C. R. 107) to the Committee on Rules.

On motion for leave, a resolution was introduced (Originating in the Committee on Health and Human Resources and reported with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

By Delegates Ellington, Summers, Fleischauer and Campbell:

H. C. R. 108 — “Requesting the Joint Committee on Government and Finance to study and review surprise medical bills and the impact it has on the populous of West Virginia”.

Whereas, The term “surprise medical bill” is commonly used to describe charges arising when an insured individual inadvertently receives care from out-of-network providers; and

Whereas, A surprise medical bill occurs during two different occasions. Firstly, the situation arises when the patient has no ability to select the emergency room, treating physician, or ambulance providers and ends up with an out of network provider; and

Whereas, Situations may also arise when a patient receives planned care from an in-network provider, often, a hospital or ambulatory care facility, but the other treating provider brought in to participate in the patient's care is not in the same network. These providers can include anesthesiologists, radiologists, pathologists, surgical assistants, and others; and

Whereas, The out of network provider will then bill the patient for charges that have been incurred by the patient, resulting in more expenses and stresses for the patient to deal with; and

Whereas, A national survey found that 8% of privately insured individuals used out-of-network care in 2011; 40% of those claims involved surprise involuntary out-of-network claims; and

Whereas, A study conducted by the New York Department of Financial Services that involved more than 2,000 complaints involving surprise medical bills found that the average out-of-network emergency bill was \$7,006. With the insurer paying \$3,228, leaving the consumer to pay \$3,778 for an emergency in which they had no choice; and

Whereas, In 2015, the State of New York has implemented the nation's first comprehensive approach to preventing surprise medical bills from out-of-network providers in emergency situations and non-emergency situations; and

Whereas, Sound solutions to the problem of surprise medical bills should be addressed in order to reduce the burden on the residents of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study and review the practice of surprise medical billing; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That 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.

The Speaker referred the resolution (H. C. R. 108) to the Committee on Rules.

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 8th day of March, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 4235), Relating to the publication requirements of the administration of estates,

And,

(H. B. 4362), Establishing a felony offense of strangulation.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 339, Establishing Judicial Compensation Commission,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 339) to the Committee on Finance was abrogated.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 293, Neighborhood Investment Program Act,

And,

S. B. 345, Relating to parking on state-owned or leased property,

And reports the same back, with amendments, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 361, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 539, Relating to condemnation proceedings,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 378, Relating to truancy intervention,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

On motion for leave, a resolution was introduced (Originating in the Committee on Education and reported with the recommendation that it be adopted), which was read by its title, as follows:

By Delegates Westfall, Rodighiero, Espinosa, Hamrick, Rohrbach, Rowan, Ellington and Romine:

H. C. R. 109 — “Requesting the Joint Committee on Government and Finance conduct an interim study of the feasibility of public virtual online schools”.

Whereas, A primary responsibility of the state legislature is to ensure a thorough and efficient education for the children of the state; and

Whereas, A variety of educational opportunities should be made available to students including those students whose needs are not met in the traditional school setting; and

Whereas, There may be a desire to expand upon the use of virtual online programming currently available for West Virginia students who do not excel in a regular school setting and for whom a full time virtual learning program would better meet their needs; 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 related issues regarding public virtual online schools; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Joint Committee on Education, 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.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

On motions for leave, bills were introduced (Originating in the Committee on Finance and reported with the recommendation that they each do pass), which were read by their titles, as follows:

By Delegates Anderson, Boggs, Butler, Frich, Hamilton, Householder, Miller, E. Nelson, Storch, Waxman and Westfall:

H. B. 4741 — “A Bill expiring funds to the balance of the Division of Human Services – Medical Services Trust Fund, fund 5185, organization 0511, for the fiscal year ending June 30, 2016, in the amount of \$500,000 from the Secretary of State, fund 0155, fiscal year 2014, organization 1600, appropriation 13000; in the amount of \$400,000 from the State Department of Education, fund 0313, fiscal

year 2012, organization 0402, appropriation 16100; in the amount of \$400,000 from the State Department of Education, fund 0313, fiscal year 2013, organization 0402, appropriation 16100; in the amount of \$300,000 from the State Department of Education – Aid for Exceptional Children, fund 0314, fiscal year 2014, organization 0402, appropriation 47200; in the amount of \$1,400,000 from the Division of Health – Central Office, fund 0407, organization 0506, fiscal year 2007, organization 0506, appropriation 84500; in the amount of \$840,000 from the Division of Health – Central Office, fund 0407, fiscal year 2008, organization 0506, appropriation 84500; in the amount of \$675,000 from the Division of Health – Central Office, fund 0407, fiscal year 2009, organization 0506, appropriation 84500; in the amount of \$558,236.61 from the Division of Health – Central Office, fund 0407, fiscal year 2010, organization 0506, appropriation 84500; in the amount of \$1,750,000 from the Tax Division, fund 0470, fiscal year 2012, organization 0702, appropriation 09900; in the amount of \$1,500,000 from the Consolidated Medical Service Fund, fund 0525, fiscal year 2013, organization 0506, appropriation 21900; in the amount of \$1,500,000 from the Consolidated Medical Service Fund, fund 0525, fiscal year 2013, organization 0506, appropriation 33500; in the amount of \$703,547.26 from the Aeronautics Commission, fund 0582, fiscal year 2012, organization 0807, appropriation 09900; and in the amount of \$345,515.96 from the Aeronautics Commission, fund 0582, fiscal year 2013, organization 0807, appropriation 13000,”

And,

By Delegates Anderson, Butler, Canterbury, Espinosa, Frich, Householder, Miller, Perry, Storch, Walters and Waxman:

H. B. 4742 — “A Bill expiring funds to the balance of the Division of Human Services – Medical Services Trust Fund, fund 5185, organization 0511, for the fiscal year ending June 30, 2016, in the amount of \$5,000,000 from the Attorney General – Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; in the amount of \$500,000 from the Secretary of State, Motor Voter Registration Fund, fund 1606, fiscal year 2016, organization

1600; in the amount of \$569,776.07 from the State Election Commission – Supreme Court of Appeals Public Campaign Financing Fund, fund 1690, fiscal year 2016, organization 1601; in the amount of \$2,527,991.87 from the Department of Administration, Risk and Insurance Management Board - Premium Tax Savings Fund, fund 2367, fiscal year 2016, organization 0218; in the amount of \$1,500,000 from the Department of Commerce, West Virginia Development Office - Development Office Promotion Fund, fund 3171, fiscal year 2016, organization 0307; in the amount of \$500,000 from the Department of Health and Human Resources, Division of Health – Infectious Medical Waste Program Fund, fund 5117, fiscal year 2016, organization 0506; in the amount of \$1,000,000 from the Department of Health and Human Resources, Division of Human Services – Medicaid Fraud Control Fund, fund 5141, fiscal year 2016, organization 0506; in the amount of \$7,500,000 from the Department of Health and Human Resources, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations, fund 5156, fiscal year 2016, organization 0506; in the amount of \$50,000 from the Department of Health and Human Resources, Division of Health – Tobacco Control Special Fund, fund 5218, fiscal year 2016, organization 0506; in the amount of \$450,000 from the Department of Health and Human Resources, Division of Health – Central Office, fund 5219, fiscal year 2016, organization 0506; in the amount of \$1,000,000 from the Department of Health and Human Resources, Division of Health - Department of Health and Human Resources Safety and Treatment Fund, fund 5228, fiscal year 2016, organization 0506; in the amount of \$5,000,000 from the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Authority Fund, fund 5375, fiscal year 2016, organization 0507; in the amount of \$1,000,000 from the Department of Health and Human Resources, Division of Human Services – James ‘Tiger’ Morton Catastrophic Illness Fund, fund 5454, fiscal year 2016, organization 0511; in the amount of \$50,000 from the Department of Health and Human Resources, Division of Human Services – Marriage Education Fund, fund 5490, fiscal year 2016, organization 0511; in the

amount of \$118,374.34 from the Department of Military Affairs and Public Safety – Division of Homeland Security and Emergency Management – June 2010 DR 1918 Flood Disaster – Gov Cont Fund, fund 6227, fiscal year 2016, organization 0606; in the amount of \$5,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704; in the amount of \$3,000,000 from Miscellaneous Boards and Commissions - Public Service Commission – Public Service Commission Fund, fund 8623, fiscal year 2016, organization 0926; in the amount of \$1,361,384.62 from the West Virginia Economic Development Authority - Economic Development Project Bridge Loan Fund, fund 9066, fiscal year 2016, organization 0944; in the amount of \$500,000 from the Division of Purchasing – Purchasing Improvement Fund, fund 2264, fiscal year 2016, organization 0213; in the amount of \$1,000,000 from the Division of Personnel, fund 2440, fiscal year 2016, organization 0222; in the amount of \$1,000,000 from the Division of Financial Institutions – Assessment and Examination Fund, fund 3041, fiscal year 2016, organization 0303; in the amount of \$1,000,000 from the Division of Forestry – Outdoor Heritage Conservation Fund, fund 3091, fiscal year 2016, organization 0305; in the amount of \$1,000,000 from the Division of Labor – Contractor Licensing Board Fund, fund 3187, fiscal year 2016, organization 0308; in the amount of \$750,000 from the Division of Labor – Manufactured Housing Trust Recovery Fund, fund 3190, fiscal year 2016, organization 0308; in the amount of \$1,500,000 from the Division of Natural Resources – Law Enforcement Program Fund, fund 3204, fiscal year 2016, organization 0310; in the amount of \$2,500,000 from the Division of Natural Resources – Planning and Development Division, fund 3205, fiscal year 2016, organization 0310; in the amount of \$1,000,000 from the Solid Waste Management Board – Facilities Operating Expense Fund, fund 3287, fiscal year 2016, organization 0312; in the amount of \$1,000,000 from the Solid Waste Management Board – Planning Fund, fund 3288, fiscal year 2016, organization 0312; in the amount of \$1,000,000 from the Division of Environmental Protection – Air Pollution Control Fund, fund 3336, fiscal year 2016,

organization 0313; in the amount of \$2,500,000 from the Division of Environmental Protection – Closure Cost Assistance Fund, fund 3328, fiscal year 2016, organization 0313; in the amount of \$2,000,000 from the Division of Environmental Protection – Oil and Gas Operating Permit and Processing Fund, fund 3323, fiscal year 2016, organization 0313; in the amount of \$3,000,000 from the Division of Environmental Protection – Solid Waste Enforcement Fund, fund 3333, fiscal year 2016, organization 0313; in the amount of \$2,500,000 from the Division of Environmental Protection – Water Quality Management Fund, fund 3327, fiscal year 2016, organization 0313; in the amount of \$2,000,000 from the Division of Miners’ Health, Safety and Training – Special Health, Safety and Training Fund, fund 3355, fiscal year 2016, organization 0314; in the amount of \$1,000,000 from the State Board of Education – Strategic Staff Development, fund 3937, fiscal year 2016, organization 0402; in the amount of \$1,000,000 from the West Virginia Health Care Authority – Certificate of Need Program Fund, fund 5376, fiscal year 2016, organization 0507; in the amount of \$1,000,000 from the Division of Homeland Security and Emergency Management – West Virginia Interoperable Radio Project, fund 6295, fiscal year 2016, organization 0606; in the amount of \$1,000,000 from the West Virginia Division of Corrections – Parolee Supervision Fees, fund 6362, fiscal year 2016, organization 0608; in the amount of \$1,500,000 from the Fire Commission – Fire Marshal Fees, fund 6152, fiscal year 2016, organization 0619; in the amount of \$1,500,000 from the Insurance Commissioner – Unfair Claims Settlement Practice Trust Fund, fund 7168, fiscal year 2016, organization 0704; in the amount of \$1,000,000 from the State Rail Authority – South Branch Valley Railroad Operating Fund, fund 8401, fiscal year 2016, organization 0804; in the amount of \$1,000,000 from the WV Board of Examiners for Registered Professional Nurses – Registered Professional Nurses, fund 8520, fiscal year 2016, organization 0907; in the amount of \$1,000,000 from the Board of Pharmacy – Pharmacy Operating Fund, fund 8537, fiscal year 2016, organization 0913; in the amount of \$1,000,000 from the Auditor’s Office – Securities Regulation Fund, fund 1225, fiscal year 2016, organization 1200; in the amount of

\$500,000 from the Treasurer's Office – Treasurer's Financial Electronic Commerce Fund, fund 1345, fiscal year 2016, organization 1300; and in the amount of \$1,000,000 from the Department of Agriculture – Agriculture Fees Fund, fund 1401, fiscal year 2016, organization 1400.”

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 619, 2016 Regulatory Reform Act,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 4017, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefore, with the same title, as follows:

Com. Sub. for H. B. 4017 — “A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.”

With the recommendation that the committee substitute do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 588, Repealing certain obsolete legislative rules by Department of Transportation,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 270, Repealing code relating to insurance policies.

And reports the same back with the recommendation that it do pass.

Mr. Speaker Pro Tempore, Mr. Anderson, Vice Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. R. 19, Drug Court Day in West Virginia,

H. C. R. 29, Harry C. "Buck" Markley Jr. Memorial Bridge,

Com. Sub. for H. C. R. 74, Arnold Miller Memorial Bridge,

H. C. R. 79, Requesting the Joint Committee on Government and Finance study state agency websites,

Com. Sub. for H. C. R. 90, U.S. Army CPL Fon Mitchell Memorial Bridge,

H. C. R. 96, Requesting the Federal Energy Regulatory Commission (FERC) expedite the approval of six interstate natural gas pipeline projects in West Virginia,

H. C. R. 101, Requesting the Joint Committee on Government and Finance to conduct an interim study on the areas remaining from the January 3, 2012, Efficiency Audit of West Virginia's Primary and Secondary Education System,

H. C. R. 102, Requesting the Joint Committee on Government and Finance to conduct an interim study on the enrollment of students solely for participation in extracurricular activities,

H. C. R. 103, Requesting the Joint Committee on Government and Finance to conduct an interim study on the educational impact and budgetary and funding formula consequences of Education Savings Accounts,

H. C. R. 104, Requesting that the Joint Committee on Government and Finance study the composition, qualifications, terms and duties of the State Board of Education,

H. C. R. 105, Requesting the Joint Committee on Government and Finance study the composition and terms of the School Building Authority,

Com. Sub. for S. C. R. 18, Wilbur Lee Clayton Memorial Bridge,

Com. Sub. for S. C. R. 33, Requesting WV Infrastructure and Jobs Development Council study and report on consolidation regarding public water and sewer utilities,

S. C. R. 44, US Marine Corps SGT Mike Plasha Memorial Bridge,

And,

S. C. R. 47, WV State Police SGT Harold E. Dailey Bridge,

And reports the same back with the recommendation that they each be adopted.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 159, Authorizing promulgation of legislative rules by miscellaneous boards and commissions,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Flanigan and Kessinger.

Miscellaneous Business

Delegate Lynch noted to the Clerk that he was absent when the vote was taken on the motion to discharge Com. Sub. for S. B. 411, and that had he been present, he would have voted “Yea” thereon.

Delegate Blair noted to the Clerk that she was absent on March 5, 2016 when the votes were taken on Roll Nos. 376 through 386, and had she been present she would have voted “Yea” thereon. She also noted that she was absent on March 7, 2016 when the votes were taken on Roll Nos. 390 and 391, and would have voted “Yea” on Roll No. 390, and “Nay” on Roll No. 391.

Delegate Ireland noted to the Clerk that he was absent on today when the vote was taken on S. B. 648, and that had he been present, he would have voted “Yea” thereon.

Delegate Duke noted to the Clerk that he was absent on today when the votes were taken on the passage and effective date of Com. Sub. for S. B. 581, and that had he been present, he would have voted “Yea” thereon.

Delegate Hamilton noted to the Clerk that he was absent on today when the votes were taken on S. B. 439 and S. B. 461, and that had he been present, he would have voted “Yea” thereon.

Delegate Householder noted to the Clerk that he was absent on today when the vote was taken on Roll No. 425 for S. B. 524, and that had he been present he would have voted “Nay” thereon.

Delegate Guthrie announced that she was absent on today when the votes were taken on Roll Nos. 407 through 426, and that had she been present, she would have voted “Yea” on all votes except Roll Nos. 415 and 425 on which she would have voted “Nay” thereon.

Delegate Byrd noted to the Clerk that he was absent on today when the votes were taken on Roll Nos. 392 through 399, and that had he been present, he would have voted “Yea” thereon.

At 10:04 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, March 9, 2016.

WEDNESDAY, MARCH 9, 2016

FIFTY-SEVENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Tuesday, March 8, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 8, 2016, he approved Com. Sub. for S. B. 421, Com. Sub. for S. B. 594 and Com. Sub. for H. B. 4163.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of concurrent resolutions of the House of Delegates as follows:

Com. Sub. for H. C. R. 7, U.S. Army PFC Cecil Ray Ball Memorial Bridge,

Com. Sub. for H. C. R. 10, U.S. Marine Corps GySgt Lionel Collins Memorial Road,

Com. Sub. for H. C. R. 15, U.S. Marine Corps PFC Clayton Andrew Craft Memorial Bridge,

Com. Sub. for H. C. R. 18, U.S. Air Force Staff Sergeant William Henry 'Bill' Whitman Memorial Highway,

And,

H. C. R. 41, U.S. Army Air Corps CPT Kenneth R. Winters, Sr. Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolutions, which were read by their titles and referred to the Committee on Rules:

Com. Sub. for S. C. R. 53 — “Requesting Division of Highways name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek, and connecting the town of Farmington to U. S. Route 250 in Marion County, the ‘Harry C. “Buck” Markley Jr. Memorial Bridge’.”

Whereas, Harry C. “Buck” Markley, was born on May 27, 1935, in Farmington, West Virginia. He was the son of Harry and Virginia Pyles Markley. He graduated from Farmington High School and worked in Marion County at Wall Plaster and Angelucci Trucking before transitioning to the coal fields of the Four States, Blacksville and Grant Town mines. He served as a federal mine inspector from 1972 through 1996 and was a member of the Four States, Blacksville and the federal mine rescue teams; and

Whereas, Harry Markley was a devoted public servant, serving on the Farmington Town Council and as Mayor of Farmington for eighteen years, as well as serving with the Farmington Volunteer Fire Department for forty-five years, and forty years as chief of Company Seven. During Harry Markley’s career in public service he also served

on the Marion County Fire Board. As Mayor, Harry Markley took the steps necessary to make Farmington easily accessible by leading the effort to reconstruct the bridge connecting Farmington to U. S. Route 250 in 1985; and

Whereas, Harry Markley passed away on June 23, 2015, in his home in Marion County. He has been an outstanding citizen and leader of Farmington and it is fitting that Harry C. “Buck” Markley Jr.’s legacy is memorialized on the very bridge that he helped to create; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 25-218-4.69 (25A219), carrying West Virginia Route 218 over Buffalo Creek, and connecting the town of Farmington to U. S. Route 250 in Marion County, the “Harry C. ‘Buck’ Markley Jr. Memorial Bridge”; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the “Harry C. ‘Buck’ Markley Jr. Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to Mayor Donna Costello.

S. C. R. 54 — “Requesting Division of Highways name bridge number 12-220-4/38 (12A068) (38.92159, -79.18086), locally known as Pansy Bridge, carrying US 220 over North Mill Creek in Grant County, West Virginia, the ‘Union Army CPT John Bond Memorial Bridge’.”

Whereas, John Bond was born April 18, 1818, in Pendleton County in what was then the State of Virginia; died October 23, 1892, and is buried in Bond Cemetery, Brushy Run, West Virginia; and

Whereas, Captain Bond was a justice of the peace from 1852 to 1859 and was also the coroner for Pendleton County; and

Whereas, Captain Bond served in Company A, West Virginia State Troops, from 1862 to 1863 as part of the loyal Virginia Troops, which were also known as the Home Guard; and

Whereas, Company A was made up of approximately fifty-three men from the area now known as Franklin Pike, but at the time was called North Mill Creek; and

Whereas, The local Home Guard was involved in several skirmishes around the Petersburg and North Mill Creek areas with the Confederate McNeill's Rangers from the Moorefield area. They also were involved in transporting supplies from the closest railroad station at New Creek Station, now known as Keyser; and

Whereas, It is fitting that an enduring memorial be established to commemorate Union Army CPT John Bond representing Company A of the West Virginia State Troops who ably served their country in its time of greatest need; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 12-22-4/38 (12A068) (38.92159, -79.18086), locally known as Pansy Bridge, carrying US 220 over North Mill Creek in Grant County, West Virginia, the "Union Army CPT John Bond Memorial Bridge"; and, be it

Further Resolved, That the Commissioner of the Division of Highways is hereby requested to have made and be placed signs identifying the "Union Army CPT John Bond Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the

Division of Highways and to Randy Ours, Commander, 7th West Virginia Infantry Camp 37, Sons of Union Veterans of the Civil War, 5611 Franklin Pike, Petersburg, WV 26847.

Com. Sub. for S. C. R. 55 — “Requesting portion of Sweetwater Road on U. S. Route 35 near Dunlow, Wayne County, West Virginia, beginning at longitude, latitude: 37.980503, -82.359323 and ending at longitude, latitude: 38.010280, -82.306155, be named “The Dewey ‘Duke’ Maynard Memorial Road”.

Whereas, Dewey “Duke” Maynard was born January 18, 1941, at Holden in Logan County, West Virginia, the youngest son of the late Hardin and Genevie McNeeley Maynard. He was married to Icie Moore Maynard for 47 years. On January 14, 2010, Dewey “Duke” Maynard died at the age of 69 after suffering from a debilitating neurological disease that robbed him of his pride and mobility. Duke was survived by his wife, daughter and son-in-law, Robin Lee and J. T. Spaulding; a son and daughter-in-law, Dewey Lee Maynard, Jr.; and Sueann Maynard, all of Dunlow, West Virginia; and

Whereas, He was a retiree of the Laborers’ Local 543 and from his own business, Maynard Logging; a member of the Masonic Blue Lodge in Crum, WV; and was a 32nd Degree Master Mason; and

Whereas, Duke was well loved throughout his community, especially by those he visited each Christmas Eve for 21 years, providing gifts and playing Santa Claus for the school children; and

Whereas, Dewey “Duke” Maynard lived in the area near this roadway his entire life and was a kind and generous man who donated personal time and money to local youth and high school sports programs; and

Whereas, He served as a Republican Committeeman for several years, promoting community involvement in the democratic process

and personally ensuring that the elderly had transportation to polling places; and

Whereas, In 1991, “Duke” created and gathered signatures on a petition to request that the Department of Highways place guardrails on Sweet Water Road for the sole purpose of protecting the school buses that traveled the road; and

Whereas, He was widely known to help those who had lost their jobs by hiring them for odd jobs and aiding them to obtain membership in the Laborers’ Local 543. He helped many neighbors purchase groceries at his own great financial burden and gathered clothes and food for neighbors who had lost their homes to fire or natural disasters. He was named an Honorary Wayne County Deputy Sheriff by Sheriff Toby Shy and was called upon to locate burned vehicles and stolen property and to assist deputies in carrying out their duties by helping them find remote areas and people they were not familiar with; and

Whereas, Naming a portion of Sweetwater Road on U. S. Route 35 near Dunlow, Wayne County, West Virginia, beginning at longitude, latitude: 37.980503, -82.359323 and ending at longitude, latitude: 38.010280, -82.306155, “The Dewey ‘Duke’ Maynard Memorial Road” would be a fitting tribute and honor to the memory of Dewey “Duke” Maynard who was a loving husband and father and a valuable asset to his community, county and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of Sweetwater Road on U. S. Route 35 near Dunlow, Wayne County, West Virginia, beginning at longitude, latitude: 37.980503, -82.359323 and ending at longitude, latitude: 38.010280, -82.306155, “The Dewey ‘Duke’ Maynard Memorial Road”; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the “The Dewey ‘Duke’ Maynard Memorial Road”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the surviving relatives of Dewey ‘Duke’ Maynard.

S. C. R. 56 — “Requesting Division of Highways to name future bridge, located at latitude 39.14167, longitude -79.42482, to carry currently unassigned county route over the Blackwater River in Tucker County from its junction with county route 32/18, the ‘Judge Ronald G. Pearson Bridge’.”

Whereas, Ronald G. Pearson was born June 15, 1942, in Fairmont, West Virginia, to Gilbert Sidney and Catherine Evans Pearson; and

Whereas, Ronald G. Pearson received his college education at West Virginia University where, among other achievements, he distinguished himself by becoming chair of the Interfraternity Council in 1965, being inducted into the Summit of Mountain Honor Society in 1966 and by chairing the statue committee that selected the sculptor, Donald DeLue, to create the West Virginia Mountaineer statue; and

Whereas, After graduating with a Bachelor of Science in Industrial Engineering, Ronald G. Pearson continued his education at the West Virginia University College of Law, where he received a Juris Doctor degree in 1968; and

Whereas, Ronald G. Pearson began a distinguished career in law and government following his admission to the West Virginia Bar in 1968, including service as the Director of Local Government Relations for the State Tax Department, the Commissioner of the Department of Finance and Administration, the State Treasurer and culminating in his appointment as a United States Bankruptcy Judge, serving in this position for thirty-two years; and

Whereas, In his service with the state, Ronald G. Pearson oversaw the inventory and mapping of all land and mineral resources of the

state, calculated actuarial values for all state pension and compensation funds to report, monitor and control the state's long-term debt and he identified and invested previously unvested funds now amounting to \$400,000,000 which continue to yield ongoing income for the state; and

Whereas, In his service as Judge of the United States Bankruptcy Court for the Southern District of West Virginia, Judge Pearson also served as Treasurer for the National Conference of Bankruptcy Judges, President of the Bankruptcy Judges Council for the Fourth Circuit, and as a member of the Fourth Circuit Judicial Council and the Committee on the Administrative Office of the Judicial Conference of the United States, and he was also honored with the Bierce Distinguished Service Award by the National Conference of Bankruptcy Judges; and

Whereas, Judge Pearson has also volunteered substantial amounts of his time to the operation and success of the National Youth Science Foundation, an organization that he helped to found in 1983 and that he has continued to serve as a member of its board of trustees since its founding; and

Whereas, The National Youth Science Foundation, based here in West Virginia, operates the renowned National Youth Science Camp and, this fall, will implement the Youth Science Discovery Experience program for West Virginia students to last through the academic year; and

Whereas, The National Youth Science Foundation inspires lifelong engagement and ethical leadership in science, technology, engineering, mathematics, and related professions through its proven educational model for mentoring, challenging, and motivating students; and

Whereas, A bridge is now being built over the Blackwater River to provide access to the newly established National Youth Science Center, a facility dedicated to state and national education programs in science, technology, engineering and mathematics and a facility that

would not exist without the dedication and efforts of Judge Ronald Pearson through many years; and

Whereas, It is fitting that Judge Pearson be honored by dedicating this bridge in recognition of his contributions to law, government, finance, education and to the people of West Virginia and the youth of this country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name a future bridge, located at latitude 39.14167, longitude -79.42482, to carry a currently unassigned county route over the Blackwater River in Tucker County from its junction with county route 32/18, as the “Judge Ronald G. Pearson Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Judge Ronald G. Pearson Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and to the honoree, Judge Ronald G. Pearson.

And,

S. C. R. 59 — “Requesting Division of Highways name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056), latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the ‘U. S. Army SPC 4 Everette R. Johnson Memorial Bridge’.”

Whereas, Everette R. Johnson was born on November 7, 1947, in Beckley, West Virginia, the son of John C. and Minnie Louise Johnson. He lived most of his life in Monroe County and was educated in Monroe County schools, graduating from Greenville High School in 1965. He was married to Sue G. Loan and they were expecting their

first child when Everette was killed in Vietnam on February 7, 1968; and

Whereas, Everette R. Johnson was survived by his widow and son, Everette Robert Johnson, Jr., who was born in August, 1968, and his mother and father, sister Darlene Johnson and three brothers, Wayne, David and Maury; and

Whereas, Naming the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056) latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U.S. Army SPC 4 Everette R. Johnson Memorial Bridge” is an appropriate recognition of his contributions and his supreme sacrifice to his country, state, community and Monroe County; therefore, be it

Resolved by the West Virginia Legislature:

That the Division of Highways is hereby requested to name the Indian Creek Bridge #3, bridge number 32-122-8.95 (32A056) latitude 37.52981, longitude -80.65837, carrying West Virginia Route 122 over Indian Creek, in Monroe County, the “U. S. Army SPC 4 Everette R. Johnson Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the twin bridges, both northbound and southbound, as the “U. S. Army SPC 4 Everette R. Johnson Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways and the surviving relatives of Everette R. Johnson.

Resolutions Introduced

Delegates Rowan, Romine, Cooper, Wagner, Kelly, Perdue, Campbell, Moye, Perry, Duke, Ambler, Border, A. Evans, D. Evans,

Ferro, Hartman, Moore, Overington and Shaffer offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 111 — “Requesting the Joint Committee on Government and Finance to study the issues, needs and challenges facing senior citizens in this state and to study the feasibility of developing and providing additional effective tools, resources and best practices to address the health, safety, welfare and other concerns of our senior citizens.”

Whereas, West Virginia has the second largest percentage of senior population in the nation; over sixteen percent of West Virginians are senior citizens sixty-five years of age or older and it has been projected that by 2035, the senior citizen population will constitute almost one fourth of the state’s total population; and

Whereas, It is well known that many of our seniors lack adequate resources and have limited financial ability to meet their needs for increased services for the necessities of life, such as personal care, health care, housing, utilities, nutrition, transportation, mobility needs and ultimately, long-term care which they need and have the decreasing ability to provide for themselves as they mature; and

Whereas, Findings from recent studies reveal several negative trends of seniors in this state: approximately forty-five percent of West Virginia seniors have a disability, compared to thirty-seven percent nationally; one in three elder state residents is in fair to poor health; for approximately one in three seniors, Social Security is the sole source of income; and relatively few of those seniors eligible take advantage of other supports like the SNAP program or utility assistance; and

Whereas, The increasing demand for current public, as well as private senior services in West Virginia already has become an increasing topic of concern by public as well as private agencies and service providers serving seniors in the state as well as various private senior advocacy groups; and

Whereas, There is an increase of children being raised in this state by senior grandparents who assume the responsibility to care for these children because of unstable parents; these seniors in many instances face difficulties or are denied the ability to attend to the child's educational needs and may be denied other public benefits available for the child as a result of not having proper legal guardianship or custody, thereby resulting in increased physical, emotional and financial strain on these senior grandparents; and

Whereas, These senior demographic trends are going to have increasing consequences for senior citizens and their families as well as on the many state and local programs that provide senior services; and

Whereas, The Legislature finds that these emerging complex issues facing seniors today and in the immediate future in this state need to be addressed by a comprehensive study and examination; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the issues, needs and challenges facing senior citizens in this state and to study the feasibility of developing and providing additional effective tools, resources and best practices to address the health, safety, welfare and other concerns of our senior citizens; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2017, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Petitions

Delegates Caputo, Longstreth and Manchin presented a petition from citizens of Marion County seeking support to construct a multi-purpose building for portable horseshoe courts in Marion County; which was referred to the Committee on Finance.

Motions

In accordance with House Rule 58, and having voted on the prevailing side, Delegate Rohrbach moved that the House of Delegates reconsider the passage of Com. Sub. for S. B. 524, Rewriting Board of Barbers and Cosmetologists article.

The question before the House being the motion by the Gentleman from the 17th, the same was put and prevailed.

The question now being on the passage of the bill, the yeas and nays were taken (**Roll No. 436**), and there were—yeas 98, nays 1, absent and not voting 1, with the yeas and absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Campbell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 524) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Delegate Marcum submitted a written motion, under the provisions of House Rule 82, to discharge Com. Sub. for S. B. 337, Creating 5-year tax credit for businesses on post-mine sites, from the Committee on Finance.

Delegate Cowles was recognized and moved that the motion to discharge be laid upon the table.

On this motion, Delegate Marcum demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 437**), and there were—yeas 64, nays 33, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, P. Smith, Sponaule, Trecost and P. White.

Absent and Not Voting: Campbell, Moore and J. Nelson.

So, a majority of the members present and voting having voted in the affirmative, the motion to discharge Com. Sub. for S. B. 337, Creating 5-year tax credit for businesses on post-mine sites, from the Committee on Finance was laid upon the table.

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. R. 19, Drug Court Day in West Virginia,

Com. Sub. for S. C. R. 18, Wilbur Lee Clayton Memorial Bridge,

Com. Sub. for S. C. R. 33, Requesting WV Infrastructure and Jobs Development Council study and report on consolidation regarding public water and sewer utilities,

S. C. R. 44, US Marine Corps SGT Mike Plasha Memorial Bridge,

S. C. R. 47, WV State Police SGT Harold E. Dailey Bridge,

H. C. R. 29, Harry C. "Buck" Markley Jr. Memorial Bridge,

Com. Sub. for H. C. R. 74, Arnold Miller Memorial Bridge,

H. C. R. 79, Requesting the Joint Committee on Government and Finance study state agency websites,

And,

Com. Sub. for H. C. R. 90, U.S. Army CPL Fon Mitchell Memorial Bridge.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein on those requiring the same.

H. C. R. 96, Requesting the Federal Energy Regulatory Commission (FERC) expedite the approval of six interstate natural gas pipeline projects in West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the adoption of H. C. R. 96 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that it was unclear if the Delegate would have a direct pecuniary interest in the adoption of the resolution and therefore excused him from voting.

The resolution (H. C. R. 96) was then adopted.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Mr. Speaker, Mr. Armstead, in the Chair

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

H. C. R. 101, Requesting the Joint Committee on Government and Finance to conduct an interim study on the areas remaining from the January 3, 2012, Efficiency Audit of West Virginia's Primary and Secondary Education System,

H. C. R. 102, Requesting the Joint Committee on Government and Finance to conduct an interim study on the enrollment of students solely for participation in extracurricular activities,

H. C. R. 103, Requesting the Joint Committee on Government and Finance to conduct an interim study on the educational impact and budgetary and funding formula consequences of Education Savings Accounts,

H. C. R. 104, Requesting that the Joint Committee on Government and Finance study the composition, qualifications, terms and duties of the State Board of Education,

And,

H. C. R. 105, Requesting the Joint Committee on Government and Finance study the composition and terms of the School Building Authority.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Third Reading

Com. Sub. for S. B. 6, Requiring drug screening and testing of applicants for TANF program; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading.

On motion of Delegate Shott, the bill was amended on page three, section six, line sixty-four, immediately following the word “applicant”, by striking out the words “who is declared ineligible for” and inserting in lieu thereof the words “whose benefits are suspended and who has not designated a protective payee or whose benefits are terminated due to”.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 438**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blackwell, Caputo, Fleischauer, Fluharty, Hornbuckle, Moore, Perdue and Pushkin.

Absent and Not Voting: Guthrie.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 6) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 1:35 p.m., on motion of Delegate Cowles, the House of Delegates recessed for thirty minutes.

Com. Sub. for S. B. 43, Clarifying means of posting to prohibit hunting or trespassing; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 439**), and there were—yeas 81, nays 11, absent

and not voting 8, with the nays and absent and not voting being as follows:

Nays: Arvon, Byrd, Fast, Frich, Ihle, Kessinger, Lynch, Marcum, McGeehan, Summers and Weld.

Absent and Not Voting: Anderson, Bates, Campbell, Hamrick, Hicks, Ireland, Reynolds and Trecost.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 43) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 195, Authorizing DHHR to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 440**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 195) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 195 — “A Bill to amend and reenact article 5, chapter 64 of the Code of West Virginia, 1931, as amended, all

relating generally to the promulgation of administrative rules by the Department of Health and Human Resources, the Human Rights Commission and the Health Care Authority; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments recommended by the Legislature; authorizing certain agencies and commissions under the Department of Health and Human Resources to repeal certain legislative, procedural or interpretive rules that are no longer authorized or are obsolete; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the preliminary requirement for approval by the West Virginia Department of Health of a laboratory for a specified technique; repealing the Department of Health and Human Resources legislative rule relating to ice cream and frozen milk; repealing the Department of Health and Human Resources legislative rule relating to establishment of a Controlled Substances Therapeutic Research Program and the certification of patients, practitioners and hospital pharmacies; repealing the Department of Health and Human Resources legislative rule relating to the installation of medication in the eyes of newborns and disseminating advice and information concerning the dangers of inflammation of the eyes of the newborn; repealing the Department of Health and Human Resources legislative rule relating to health facilities plan for the fiscal years 1985-1989; repealing the Department of Health and Human Resources legislative rule relating to design, information and procedural manual for mobile home parks; authorizing the Department of Health and Human Resources to promulgate a legislative rule regarding West Virginia clearance for emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to fees for services; repealing the Department of Health and Human Resources legislative rule relating to pertussis guidelines; repealing the Department of

Health and Human Resources legislative rule relating to hazardous materials treatment information repository; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to infectious medical waste; repealing the Department of Health and Human Resources legislative rule relating to immunization criteria for transfer students; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; repealing the Department of Health and Human Resources legislative rule specialized health procedures in public schools; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to tuberculosis testing, control, treatment and commitment; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to farmers market vendors; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the certification of opioid overdose prevention and treatment training programs; repealing the Department of Health and Human Resources legislative rule relating to procedural rules for the advisory Committee for the Omnibus Health Care Act; authorizing the Department of Health and Human Resources to promulgate a legislative rule regarding chronic pain management licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule regarding neonatal abstinence centers; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access; registry and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child care licensing requirement; repealing the Department of Health and Human Resources legislative rule relating to incorporation of the handicapped children services manual; repealing the Department of Health and Human Resources legislative rule relating to termination of income withholding; repealing the Department of Health and Human Resources obtaining support from federal and state income tax refunds; repealing the Department of Health and Human Resources legislative rule relating to interstate

income withholding; repealing the Department of Health and Human Resources legislative rule relating to providing information to credit reporting agencies; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the family child care facility licensing requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the family child care home registration requirements; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia Works program sanctions; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to qualifications for a restricted provisional license to practice as a social worker within the department; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to goals for foster children; repealing the Health Care Authority's legislative rule relating to freeze on hospital rates and granting temporary rate increases; repealing the Health Care Authority's legislative rule relating to the Utilization Review and Quality Assurance Program; repealing the Health Care Authority's legislative rule relating to limitation on hospital gross patient revenue; repealing the Health Care Authority's legislative rule relating to exemption for rural primary care hospitals; and authorizing the Human Rights Commission to promulgate a legislative rule relating to the Pregnant Workers' Fairness Act."

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 441**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 195) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 326, Repeal and recodify law relating to contributing to delinquency of minor child; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 442**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 326) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 326 — “A Bill to repeal §49-4-901 and §49-4-902 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8D-10, all relating to repealing the criminal offense of contributing to the delinquency or neglect of a child; relating to repealing providing the court or the judge discretion to suspend the sentence and allow a child to remain in the custody of the convicted person with certain conditions; creating the criminal offense of contributing to the delinquency of a child; defining delinquency; providing for penalties; authorizing restitution; allowing for additional terms and conditions to be imposed upon conviction; providing that delinquency of a child does not apply to a parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody, or control of the parent, guardian, or custodian with necessary medical care, when medical care conflicts with the tenets and practices of a recognized religious denomination or order which parent, guardian or custodian is an adherent or member; establishing that it is not an essential element of the offense that the minor actually be delinquent; providing for certain conditions of bond upon conviction and suspension of the sentence by the court; providing that a bond given upon suspension of a sentence which becomes forfeited is

recoverable without separate suit; providing procedure for recovery of bond by principal or surety; providing that any money collected or paid upon execution, or upon the bond, shall be deposited with the clerk and applied to court costs then to treatment, care, or maintenance of the child; and permitting the child to remain in the custody of the convicted person with certain conditions.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 330, Requiring automobile liability insurers provide 10 days’ notice of intent to cancel due to nonpayment of premium; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 443**), and there were—yeas 75, nays 25, absent and not voting none, with the nays being as follows:

Nays: Bates, Boggs, Byrd, Caputo, Eldridge, Fleischauer, Fluharty, Guthrie, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Moore, Perdue, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, Sponaule, Trecost and P. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 330) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 330 — “A Bill to amend and reenact §33-6A-1 of the Code of West Virginia, 1931, as amended, relating to cancellation or nonrenewal of automobile liability policies; providing restrictions on cancellation of automobile liability insurance policy that has been in effect for sixty days; excepting cancellations in the case of

renewals; specifying when an insurer may cancel an automobile liability policy that has been in effect for sixty days; providing for notice to insureds for certain cancellations or voiding of automobile insurance policies; specifying allowable methods of sending notices and content thereof; providing for thirty days' notice to cancel automobile liability policy for certain reasons; providing exception to requirement of thirty days' notice for nonpayment of premiums or installments of premiums; requiring fourteen days' notice for cancellations due to nonpayment of premiums or installments of premiums; specifying when notice period begins to run and when payment deemed accomplished for purposes of making payment during fourteen day notice period for cancellation due to nonpayment of premiums or installments of premiums; providing for voidability of automobile liability insurance policy if initial payments of premiums or initial installments of premiums not made; and providing for ten-day notice that policy will be voided absent payment of amounts due under terms of policy when initial payment of premiums or initial installments of premiums not made."

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 333, Taking and registering of wildlife; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 444**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Fast.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 333) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 333 — “A Bill to amend and reenact §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, as amended, all relating to the possession of wildlife; declaring unlawful the taking, purchasing, possession or maintenance in captivity of certain wildlife except as allowed by statute or rules promulgated; requiring electronic registration of deer, bear, turkey, wild boar, bobcat, beaver, otter and fish in accordance with promulgated rules; requiring that promulgated rules provide a procedure for persons who are not required to obtain licenses or permits to register wildlife using identification other than a social security number; providing for electronic registration of beaver and otter pelts taken and tagged; providing requirements for field tags and electronic registration; and eliminating requirements regarding crossing boundaries of counties adjacent to that in which a kill was made.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 338, Compiling and maintaining Central State Mental Health Registry; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 445**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Lynch.

Absent and Not Voting: Byrd, Hicks and Morgan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 338) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 416, Allowing terminally ill patients access to investigational products; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §16-51-1, §16-51-2, §16-51-3, §16-51-4, §16-51-5, §16-51-6, §16-51-7 and §16-51-8, all to read as follows:

ARTICLE 51. RIGHT TO TRY ACT.

§16-51-1. Short title.

This article shall be known and may be cited as the Right to Try Act.

§16-51-2. Legislative findings.

(a) The Legislature finds and declares that:

(1) The process of approval for investigational drugs, biological products and devices in the United States protects future patients from premature, ineffective and unsafe medications and treatments over the long run, but the process often takes many years;

(2) Patients who have a terminal illness do not have the luxury of waiting until an investigational drug, biological product or device receives final approval from the United States Food and Drug Administration;

(3) Patients who have a terminal illness have a fundamental right to attempt to pursue the preservation of their own lives by accessing available investigational drugs, biological products and devices;

(4) The use of available investigational drugs, biological products and devices is a decision that should be made by the patient with a terminal illness in consultation with the patient's health care provider and the patient's health care team, if applicable; and

(5) The decision to use an investigational drug, biological product or device should be made with full awareness of the potential risks, benefits and consequences to the patient and the patient's family.

(b) It is the intent of the Legislature to allow for terminally ill patients to use potentially life-saving or pain-relieving investigational drugs, biological products and devices.

§16-51-3. Definitions.

For the purposes of this article:

(1) 'Eligible patient' means a person who has:

(A) A terminal illness attested to by the patient's treating physician;

(B) Considered all other treatment options currently approved by the United States Food and Drug Administration;

(C) Been unable to participate in a clinical trial for the terminal illness within one hundred miles of the patient's home address for the terminal illness, or not been accepted to the clinical trial within one week of completion of the clinical trial application process;

(D) Received a recommendation from his or her physician for an investigational drug, biological product or device;

(E) Given written, informed consent for the use of the investigational drug, biological product or device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a

parent or legal guardian has given written, informed consent on the patient's behalf; and

(F) Documentation from his or her physician that he or she meets the requirements of this subdivision.

(2) 'Eligible patient' does not include a person being treated as an inpatient in a hospital licensed or certified pursuant to article five-b, chapter sixteen of this code.

(3) 'Investigational drug, biological product or device' means a drug, biological product or device that has successfully completed phase one of a clinical trial but has not yet been approved for general use by the United States Food and Drug Administration.

(4) 'Terminal illness' means a disease that, without life-sustaining procedures, will soon result in death or a state of permanent unconsciousness from which recovery is unlikely.

(5) 'Written, informed consent' means a written document signed by the patient and attested to by the patient's physician and a witness that, at a minimum:

(A) Explains the currently approved products and treatments for the disease or condition from which the patient suffers;

(B) Attests to the fact that the patient concurs with his or her physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;

(C) Clearly identifies the specific proposed investigational drug, biological product or device that the patient is seeking to use;

(D) Describes the potentially best and worst outcomes of using the investigational drug, biological product or device with a realistic description of the most likely outcome, including the possibility that new, unanticipated, different or worse symptoms might result and that death could be hastened by the proposed treatment based on the

physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition;

(E) Makes clear that the patient's health insurer and provider may not be obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product or device;

(F) Makes clear that the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment and care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements;

(G) Makes clear that in-home health care may be denied if treatment begins; and

(H) States that the patient understands that he or she may be liable for all expenses consequent to the use of the investigational drug, biological product or device, and that this liability extends to the patient's estate, unless a contract between the patient and the manufacturer of the drug, biological product or device states otherwise.

§16-51-4. Drug manufacturers; availability of investigational drugs, biological products or devices; costs; insurance coverage.

(a) A manufacturer of an investigational drug, biological product or device may make available the manufacturer's investigational drug, biological product or device to eligible patients pursuant to this article. This article does not require that a manufacturer make available an investigational drug, biological product or device to an eligible patient.

(b) A manufacturer may:

(1) Provide an investigational drug, biological product or device to an eligible patient without receiving compensation; or

(2) Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product or device.

(c) Nothing in this article expands the coverage required by article fifteen, chapter thirty-three of this code.

(d) A health insurance carrier may, but is not required by this article to, provide coverage for the cost of an investigational drug, biological product or device.

(e) An insurer may deny coverage to an eligible patient from the time the eligible patient begins use of the investigational drug, biologic product or device through a period not to exceed six months from the time the investigational drug, biologic product or device is no longer used by the eligible patient; except that coverage may not be denied for a preexisting condition and for coverage for benefits which commenced prior to the time the eligible patient begins use of such drug, biologic product or device.

(f) If a patient dies while being treated by an investigational drug, biological product or device, the patient's heirs and estate are not liable for any outstanding debt related to the treatment or lack of insurance due to the treatment.

§16-51-5. Action against health care provider's license or Medicare certification prohibited.

Notwithstanding any other law, a licensing board may not revoke, fail to renew, suspend or take any action against a health care provider's license issued pursuant to chapter thirty of this code based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product or device as long as the recommendations are consistent with medical standards of care. Action against a health care provider's Medicare certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product or device is prohibited.

§16-51-6. Access to investigational drugs, biological products and devices.

An official, employee or agent of this state shall not block or attempt to block an eligible patient's access to an investigational drug, biological product or device. Counseling, advice or a recommendation consistent with medical standards of care from a licensed health care provider is not a violation of this section.

§16-51-7. No cause of action created.

This article does not create a private cause of action against a manufacturer of an investigational drug, biological product or device, against a health care provider as defined in section two, article seven-b, chapter fifty-five of this Code, or against any other person or entity involved in the care of an eligible patient using the investigational drug, biological product or device, for any harm done to the eligible patient resulting from the investigational drug, biological product or device, so long as the manufacturer, health care provider, or other person or entity is complying in good faith with the terms of this article.

§16-51-8. Effect on health care coverage.

Nothing in this article affects the mandatory health care coverage for participation in clinical trials pursuant to section two, article twenty-five-f, chapter thirty-three of this code."

On motion of Delegates McCuskey and Byrd, the Judiciary Committee amendment was amended on page one, section one, line one, immediately following the word "the", by inserting the name "Ben Price".

The Judiciary Committee amendment, as amended, was then adopted.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 446**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 416) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 429, Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 447**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Byrd and McCuskey.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 429) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 484, Relating to reemployment rights of military personnel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 448**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Byrd and McCuskey.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 484) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 520, Allowing PEIA ability to recover benefits or claims obtained through fraud; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Lane, unanimous consent was granted to amend the bill on third reading.

On motion of Delegate Shott, the bill was amended on page three, section twelve, line forty-five, by striking out the words “longer than one year” and inserting in lieu thereof “less than one nor more than five years”.

On page three, section twelve, line fifty-six, by striking out “\$25,000” and inserting in lieu thereof “\$5,000”.

And,

On page three, section twelve, line fifty-six, by striking out the words “fifteen days but not more than one year” and inserting in lieu thereof “one nor more than five years.”

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 449**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 520) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 575, Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 450**), and there were—yeas 67, nays 33, absent and not voting none, with the nays being as follows:

Nays: Azinger, Bates, Boggs, Byrd, Campbell, Caputo, Eldridge, A. Evans, Flanigan, Fleischauer, Fluharty, Folk, Guthrie, Hornbuckle, Ihle, Ireland, Longstreth, Manchin, Marcum, McGeehan, Miley, Moore, Moye, J. Nelson, Perdue, Perry, Pushkin, Rowe, Shaffer, Skinner, P. Smith, Sponaugle and Wagner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 597, Relating generally to Health Care Authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 451**), and there were—yeas 89, nays 10, excused from voting 1, absent and not voting none, with the nays and excused being as follows:

Nays: Fast, Fleischauer, Fluharty, Folk, Hanshaw, Ihle, Kurcaba, McGeehan, Pushkin and Skinner.

Excused from Voting: Rohrbach.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 597 — “A Bill to amend and reenact §16-29B-26 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §16-29B-28 and §16-29B-29, all relating generally to the Health Care Authority; exempting certain actions of the Health Care Authority from state and federal antitrust laws; setting forth intent to immunize cooperative agreements approved and subject to supervision by the Health Care Authority; establishing that a cooperative agreement that is not approved and subject to supervision by the Health Care Authority shall not have immunity; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between certain hospitals and other hospitals or health care providers in the state; setting forth goals of a cooperative agreement; granting authority to the Health Care Authority to review proposed cooperative agreements; establishing a review process for cooperative agreements; requiring notification of application and public hearing to be published on Health Care Authority’s website and the State Register; providing for public comment period; requiring notice of public hearing to be provided to all persons, groups or organizations who have submitted written comments to proposed cooperative agreements and to individuals, groups or organizations designated as affected parties in certificate of need proceeding; requiring copy of application to be provided to the Attorney General; setting forth standards for review of cooperative agreements; requiring the Health Care Authority to consult with the Attorney General regarding assessment of approval of proposed cooperative agreement; requiring approval of Health Care Authority to have written concurrence of the Attorney General; providing that the Health Care Authority evaluate the benefits and disadvantages of the proposed cooperative agreement; providing that the Health Care Authority make a determination whether the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement; providing for approval with conditions; providing that the Health Care Authority’s decision to approve or deny an Application is a final order; granting enforcement

powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting forth reporting requirements; providing for establishment and assessment of fees; providing that these new provisions shall not undermine the validity of an agreement between a hospital and the Attorney General entered into before the effective date of this legislation; requiring submission of certain proposed rate increases to be provided to the Attorney General for review; authorizing the Attorney General to approve, reject or modify certain proposed rate increases; providing that certain proposed rate increases may only be implemented with the approval of the Attorney General; providing the Health Care Authority maintain on file all approved cooperative agreements, including conditions imposed; requiring notification of termination of cooperative agreement be filed with the Health Care Authority; prohibiting billing or charging for health services resulting from or related to a cooperative agreement until approved by the Health Care Authority; providing that submission of application constitutes agreement to certain regulation and supervision of the Health Care Authority; and providing for severability.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 452**), and there were—yeas 83, nays 16, excused from voting 1, absent and not voting none, with the nays and excused being as follows:

Nays: Azinger, Byrd, Faircloth, Fast, Flanigan, Fleischauer, Fluharty, Folk, Hanshaw, Ihle, McGeehan, Moffatt, J. Nelson, Pushkin, Skinner and Walters.

Excused from Voting: Rohrbach.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 622, Composition of PEIA Finance Board; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

S. B. 627, Permitting physician to decline prescribing controlled substance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 453**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 627) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

S. B. 627 — “A Bill to amend and reenact §30-3A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §55-7-23 of said code, all relating to permitting physicians to decline prescribing controlled substance in certain circumstances; limiting disciplinary action by a licensing board on a health care provider with prescriptive authority for declining to prescribe, or declining to continue to prescribe, any controlled substance in certain circumstances; and providing that a health care provider with prescriptive authority is not liable to a patient or third party for declining to prescribe, or declining to continue to prescribe, any controlled substance in certain circumstances.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

S. B. 54, Altering how tax is collected on homeowners associations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, on page one, section nine-o, line six, after the words “capacity for”, by striking out the word “all” and inserting in lieu thereof the word “its”.

Delegate Phillips moved to amend the bill on page one, by striking out the enacting section, and inserting in lieu thereof the following:

“That §11-1C-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted; to further amend said code by adding thereto a new section, designated §11-2-23; and to further amend said code by adding thereto a new section, designated §11-15-9c, all to read as follows:

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-4. Commission powers and duties; rulemaking.

(a) On or before October 1, 1990, and thereafter as necessary the property valuation training and procedures commission shall perform the following duties:

(1) Devise training and certification criteria for county assessors and their employees and members of county commissions, which shall include a definition of ‘appropriate staff member’ as the term is used in section six of this article relating to required training, which definition shall include deputy assessors as provided for in section three, article two of this chapter;

(2) Establish uniform, statewide procedures and methodologies for the mapping, visitation, identification and collection of information on

the different species of property, which procedures and methodologies shall include reasonable requirements for visitation of property, including a requirement that a good faith effort be made to contact any owner of owner-occupied residential property: *Provided*, That the commission is not authorized to establish the methods to value real and personal property, but shall have the authority to approve such methods;

(3) Develop an outline of items to be included in the county property valuation plan required in section seven of this article, which shall include information to assist the property valuation training and procedures commission in its determination of the distribution of state funds provided pursuant to section eight of this article.

(b) On or before July 1, 1991, the commission shall establish objective criteria for the evaluation of the performance of the duties of county assessors and the Tax Commissioner.

(c) In the event the Tax Commissioner and a county assessor cannot agree on the content of the plan required under section seven of this article, the commission shall examine the plan and the objections of the Tax Commissioner and shall resolve the dispute on or before the first day of the fiscal year following the fiscal year in which the plan was submitted to the commission for resolution.

(d) The commission shall have the power to make such rules as it deems necessary to carry out the provisions of this section, which rules shall include procedures for the maintenance, use, sale and reproduction of microfilm, photography and tax maps. Any rules adopted by the commission prior to October 1, 1990, under subsection (a) of this section are exempt from the provisions of article three of chapter twenty-nine-a of this code: *Provided*, That the commission shall file a copy of any rule so exempted from the provisions of chapter twenty-nine-a of this code with the legislative rule-making review committee created pursuant to section eleven, article three of said chapter prior to November 30, 1990.

(e) The commission shall have the authority to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this article.

(f) In order to fund the costs of the requirements of this article, the valuation commission shall have the authority, on a one-time basis, to borrow \$5 million and to distribute such funds according to need and the valuation plan submitted by the counties. Upon request of the valuation commission, the state Board of Investments shall loan, under commercially reasonable terms to be determined by the parties, up to \$5 million to the valuation commission, on a one-time basis, from one of the various funds administered by the state Board of Investments.

(g) The commission shall be required, in the event that the Tax Commissioner has failed to do so, to appoint one or more special assessors if it is the determination of the commission that an assessor has substantially failed to perform the duties required by sections seven and eight of this article. A writ of mandamus shall be the proper remedy if the commission fails to perform any of its duties required by law.

(h) Upon receipt of a report instigated by petition pursuant to section twenty-three, article two of this chapter to any a county commission directing a review of property value to determine if a reduction of ten percent or greater than current valuation as established for that county has occurred, the commission shall undertake a timely review the petition and assessors report and make one of the following findings to the assessor:

(1) If the Commission determines that the assessor's report is incomplete, inaccurate or fails to provide enough information to allow the commission to make a fair and adequate judgement on whether the value or real property has uniformly reduced ten percent or more by property species since the last valuation, the commission shall direct the assessor to provide further information deemed necessary for the commission to make a finding as provided for in subdivision (2) or (3) of this subsection;

(2) Upon review of the assessor's report, if the commission determines that the property value has not uniformly, by property species has declined by ten percent or more, then the Commission shall inform the assessor that the petition is denied and no further action shall be taken by the assessor; or

(3) If the Commission makes a finding that the property values, by species, have been reduced by ten percent or more since the last assessment, that the county assessor is directed by finding of the commission, to reduce the tax assessments for real property of the county.

(i) The Tax Commissioner may promulgate rules pursuant to article three, chapter twenty-nine-a of this code, to provide necessary procedures and guidance to county assessors and the commission to comply with administering a petition as authorized pursuant to subsection (h) of this section.

ARTICLE 1. ASSESSORS.

§11-2-23. Petition for reduction in property taxes; review and implementation.

(a) Registered voters of a county seeking to direct the county assessor to undertake a review of current assessed property values of the various species of real property to determine if the value as established for each type of property at the most recent property assessment has since decreased ten percent or more below the value at the time of the last assessment, shall submit a petition, signed by ten percent or more of the registered voters in the county from the last primary or general election most recently held, to the county commission, that directs the assessor to conduct a review and submit a report as required by this section.

(b) Upon receipt of the petition, the county commission shall verify that the signatures on the petition are: (1) legally registered

voters of the county; and (2) equal to or exceed ten percent of the registered voters of the county. Upon that finding the county commission shall forward the petition to the county assessor, who shall then undertake the following:

(1) Collect sufficient available information, including recent property sales, economic indicators and other relevant factors impacting the county and region, as the assessor may deem relevant, to make a finding whether the current market value of real property has depreciated since the last valuation and if so if the average reduction of value, per species of real property examined, is ten percent or greater since the last assessment; and

(2) Prepare a report, including his or her findings, to be immediately submitted to the property valuation training and procedures committee, as established pursuant to section three, article one-c of this chapter.

(c) The county commission, upon receiving notice from the property valuation training and procedures committee has found that property values by species have been reduced by ten percent in the county or more since the last assessment, shall recalculate the next fiscal year tax rates due the county to reduce the amount of property taxes no more than 5% in any fiscal year, up to 10% over a two fiscal year period, effectuating a reduction in property tax assessments to reflect this reduction. If the reduction coincides with a reassessment otherwise required by law, this assessment shall be incorporated into the otherwise mandated reassessment.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the purpose of the amendment was not germane to the fundamental purpose of the bill.

The amendment recommended by the Committee on Finance was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 202, Authorizing Department of Commerce promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“Be it enacted by the Legislature of West Virginia:

That article 10, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. AUTHORIZATION FOR DEPARTMENT OF
COMMERCE TO PROMULGATE
LEGISLATIVE RULES.**

§64-10-1. Division of Natural Resources.

(a) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section seven, article one, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 8, 2015, relating to the Division of Natural Resources (prohibitions when hunting and trapping, 58 CSR 47), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (general hunting, 58 CSR 49), is authorized.

(c) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (deer hunting, 58 CSR 50), is authorized.

(d) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (wild boar hunting, 58 CSR 52), is authorized.

(e) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section five-h, article two, chapter twenty of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 29, 2015, relating to the Division of Natural Resources (elk restoration and management, 58 CSR 74), is authorized with the following amendment:

On page one, section three, after the section heading “**§58-74-3. Elk Management Plan.**”, by adding the following:

“3.1. An Elk Management Plan has been developed by the Division which will guide the Division’s management decisions as it relates to the state’s active elk restoration project.

3.1.a. The elk management plan will follow an adaptive management approach and the plan will be updated on a 5-year basis.

3.1.b. The Division shall solicit public comments on the draft elk management plan and will take public input under consideration prior to finalizing the plan.

3.1.c. The elk management plan will include, but is not limited to, the following plan components.

3.1.c.1. Elk biology and life history.

3.1.c.2. Overview of elk reintroduction feasibility studies”.

(f) The legislative rule effective on January 1, 1983, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (shoreline camping of government owned reservoir areas in West Virginia, 58 CSR 30), is repealed.

(g) The legislative rule effective on May 9, 1995, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (special bear hunting, 58 CSR 48), is repealed.

(h) The procedural rule effective on October 9, 1996, authorized under the authority of section seven, article one, chapter twenty of this code, relating to the Division of Natural Resources (rules for open government proceedings, 58 CSR 1), is repealed.

§64-10-2. Division of Labor.

(a) The legislative rule contained in title twenty-eight, series two, and filed in the State Register on May 13, 2005, authorized under the authority of section five, article eleven, chapter twenty-one of this code, relating to the Contractor Licensing Board (West Virginia Contractor Licensing Act, 28 CSR 2) is reauthorized with the following amendment:

On page seven, subsection 3.29 by striking “\$15,000” and inserting in lieu thereof “\$40,000”.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section nine, article five, chapter twenty-one of this code, modified by the Division of Labor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 9, 2015, relating to the Division of Labor (wage payment and collection, 42 CSR 5), is authorized with the following amendment:

On page seven, by striking out subsection 10.4 and subdivisions 10.4.1 and 10.4.2 and inserting in lieu thereof the following:

“10.4. The employer and the claimant shall be entitled to a status conference upon request to the Division.

10.4.1. At that time, the employer and the claimant shall have the opportunity to review all records collected by the Division during its investigation relating to the wage claim with respect to all portions of the investigation that the Division has not resolved in favor of the employer.

10.4.2. Within twenty (20) days of the conclusion of the status conference, an employer or the claimant may prepare and submit a written statement and/or evidence for consideration by the Division.”

(c) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section one, article five-c, chapter twenty-one, of this code, modified by the Division of Labor to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on December 9, 2015, relating to the Division of Labor (minimum wage and maximum hours, 42 CSR 8), is authorized with the following amendments:

On page 1, section 2, by adding a new subsection, designated subsection 2.2, to read as follows:

“2.2. Pursuant to W. Va. Code § 21-5C-1(e), the provisions of this rule relating to maximum hours and overtime compensation are not enforceable against or applicable to any individual, partnership, association, corporation, person or group of persons or similar unit if eighty percent of the persons employed by him or her are subject to any federal act relating to maximum hours and overtime compensation.”

And, renumbering the remaining subsection.

On page eight, former subsection 6.3, by striking out the remainder of the subsection.

(d) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section eleven, article three-c, chapter twenty-one of this code, modified by the Division of Labor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 17, 2015, relating to the Division of Labor (Elevator Safety Act, 42 CSR 21), is authorized with the following amendment:

On page one, subsection 3.1, by striking out the word “Three” and inserting in lieu thereof the word “Two”.

(e) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section eleven, article three-c, chapter twenty-one of this code, relating to the Division of Labor (licensing of elevator mechanics and technicians and registration of apprentices, 42 CSR 21A), is authorized with the following amendment:

On page 1, subsection 3.2, by striking out the word “Three” and inserting in lieu thereof the word “Two”.

(f) The legislative rule effective on May 26, 1983, authorized under the authority of section two, article three, chapter twenty-one of this code, relating to the Division of Labor (West Virginia safety code for aerial passenger tramways, lifts and tows, 42 CSR 2), is repealed.

(g) The legislative rule effective on December 31, 1982, authorized under the authority of article five-a, chapter twenty-one of this code, relating to the Division of Labor (West Virginia Prevailing Wage Act, 42 CSR 7), is repealed.

§64-10-3. Office of Miners’ Health, Safety and Training.

The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section fourteen, article six, chapter twenty-two-a of this code, relating to the Office of Miners’ Health, Safety and Training (substance abuse screening standards and procedures, 56 CSR 19), is authorized.

§64-10-4. Tourism Commission.

The legislature directs the Tourism Commission, pursuant to the authority given to the Commission in section nine, article two, chapter five-b of this code, to promulgate the legislative rule filed in the State Register by the Department of Tourism on May 3, 2010, relating to the Direct Advertising Grants Program (144 CSR 1), with the amendments set forth below:

By amending the title of the rule to replace the authorizing agency, currently identified as the Division of Tourism, with the Tourism Commission;

On page one, section two, by striking out all of subdivision 2.4.2 and inserting in lieu thereof a new subdivision 2.4.2 to read as follows:

2.4.2. Entertainment establishments which include, but are not limited to, pari-mutuel gaming establishments, live performing art centers, sporting organizations or arenas, vineyards or wineries, craft breweries, distilleries, and mini-distilleries;

On pages one and two, section two, by striking out all of subdivision 2.7.4 and inserting in lieu thereof a new subdivision 2.7.4 to read as follows:

2.7.4. Entertainment establishments which include, but are not limited to, pari-mutuel gaming establishments, live performing art centers, sporting organizations or arenas, vineyards or wineries, craft breweries, distilleries, and mini-distilleries;

On page six, section six, by striking out all of subsection 6.2 and inserting in lieu thereof a new subsection 6.2 to read as follows:

6.2. Seventy-five percent (75%) of a project's direct advertising must be directed toward areas outside of the local market or in major out-of-state markets, except for direct advertising for a fair or festival grant authorized by subsection 7.3 of this rule. The Commission

reserves the right on a case by case basis to allow local market media in excess of 25% of a project's direct advertising that cost effectively reaches a well-researched target market.;

On page eight, section seven, by striking out all of subsection 7.2 and inserting in lieu thereof a new subsection 7.2 to read as follows:

7.2. There is hereby established a small grants program to be administered by the Division. Awards under this program shall not exceed \$7,500 per applicant and no applicant shall receive more than one grant per fiscal year. The applicant and partner(s) must provide a minimum of 25 percent of the total project cost. Total grants awarded under this program in any fiscal year shall be used by the applicant solely for advertising purposes. Small grant awards shall require the approval of the director of the Division. Grant applications must be received by established deadlines. No applicant who has received a grant larger than \$7,500 in any fiscal year may apply for a small grant under this section during the same fiscal year.

On page eight, section seven, by striking out all of subsection 7.3 and inserting in lieu thereof a new subsection 7.3 to read as follows:

7.3. There is hereby established a Fairs and Festivals grants program to be administered by the Division. Awards under this program shall be limited to Fairs and Festivals, and grants shall not exceed \$5,000 per applicant per year. The applicant must provide a minimum of 50 percent of the total project cost, but the requirements of subsection 5.5 of these rules shall not apply to the Fairs and Festivals grants program. Total grants awarded under this program shall be used by the applicant solely for advertising purposes. Fairs and Festivals grant awards shall require the approval of the Director of the Division. Grant applicants must be received by established deadlines.

§64-10-5. WorkForce West Virginia.

The legislative rule filed in the State Register on November 6, 2015, authorized under the authority of section eleven, article five-a,

chapter twenty-one of this code, modified by the WorkForce West Virginia to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the WorkForce West Virginia (West Virginia Prevailing Wage Act, 96 CSR 4), is authorized.

§64-10-6. Commercial Whitewater Advisory Board.

(a) The legislative rule effective on October 8, 1987, authorized under the authority of section twenty-three-a, article two, chapter twenty of this code, relating to the Commercial Whitewater Advisory Board (commercial whitewater outfitters, 182 CSR 1), is repealed.

(b) The procedural rule effective on August 31, 1987, authorized under the authority of section three, article nine-a, chapter twenty of this code, relating to the Commercial Whitewater Advisory Board (regulations for open governmental proceedings, 182 CSR 2), is repealed.

§64-10-7. Commissioner of Employment Security.

(a) The legislative rule effective on May 1, 1991, authorized under the authority of article two, chapter twenty-one-a of this code, relating to the Commissioner of Employment Security (regulations of the Commissioner of Employment Security, 83 CSR 1), is repealed.

(b) The legislative rule effective on September 2, 1983, authorized under the authority of section five, article two-a, chapter twenty-one-a of this code, relating to Commissioner of Employment Security (implementation of a pilot employment supplemental matching program, 84 CSR 2), is repealed.

§64-10-8. Division of Forestry.

The procedural rule effective on June 1, 2004, authorized under the authority of section three, article three, chapter twenty-nine-a of this code, relating to the Division of Forestry (Freedom of Information Act requests, 22 CSR 4), is repealed.

§64-10-9. Minimum Wage Rate Board.

The legislative rule effective on January 1, 1983, authorized under the authority of article five-a, chapter twenty-one of this code, relating to the Minimum Wage Rate Board (West Virginia Prevailing Wage Act, 43 CSR 1), is repealed.”

On motion of Delegate Shott, the Judiciary Committee amendment was amended on page three, section two, line one, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

“(a) The Legislature directs the West Virginia Contractor Licensing Board to promulgate the legislative rule filed in the State Register on May 13, 2005, authorized under the authority of section five, article eleven, chapter twenty-one of this code, relating to the West Virginia Contractor Licensing Act (West Virginia Contractor Licensing Act, 28 CSR 2), with the amendment set forth below:

On page seven, subsection 3.29 by striking “\$15,000” and inserting in lieu thereof “\$40,000.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 259, Amending Unfair Trade Practices Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page five, section eight, line nineteen by striking out the word “and”,

And,

On page five, section eight, line twenty-one after the word “institutions” by striking out the period and inserting in lieu thereof a

semi-colon and the word “and” followed by adding a new subsection (i) to read as follows:

“(i) During and for fifteen days after a business grand opening as determined by the completion date.”

Delegate Byrd moved to amend the bill on page four, section six, line eleven, by striking out the word “seven” and inserting in lieu thereof, the word “four”.

On the adoption of the amendment, Delegate Byrd demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 454**), and there were—yeas 45, nays 55, absent and not voting none, with the yeas being as follows:

Yeas: Bates, Blackwell, Byrd, Canterbury, Caputo, Duke, Eldridge, Fast, Fleischauer, Fluharty, Folk, Guthrie, Hamilton, Hamrick, Hicks, Hill, Hornbuckle, Householder, Howell, Ihle, Kurcaba, Lane, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moffatt, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Pushkin, Rodighiero, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Upson, Wagner and Waxman.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

S. B. 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page three,

section eight, line fifty-seven, following the word “date”, by inserting the following:

“*Provided*, That this prohibition does not apply to any mortgage modification or refinancing loan made in participation with and in compliance with the federal Making Homes Affordable program, or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement.”

On page six, section eight, line one hundred twenty-two, following the word “practice” and the colon, by striking out the remainder of the subdivision, and inserting in lieu thereof the following:

“*Provided*, That this prohibition does not apply to any mortgage modification or refinancing loan made in participation with and in compliance with the federal Making Homes Affordable program, or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement.”

On page six, following line one hundred thirty-one, by inserting the following:

“§31-17-17. Loans made in violation of this article void; agreements to waive article void.

(a) If any primary or subordinate mortgage loan is made in willful violation of the provisions of this article, except as a result of a bona fide error, such loan may be canceled by a court of competent jurisdiction: *Provided*, That it may not be construed to have been a willful violation of the provisions of this article, if the violation is due to a violation of subdivisions (j)(3) or (m)(8), section eight of this article for a mortgage modification or refinancing loan made after May 1, 2009, in participation with and in compliance with the federal Making Homes Affordable program, or any other mortgage

modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement.

(b) Any agreement whereby the borrower waives the benefits of this article shall be deemed to be against public policy and void.

(c) Any residential mortgage loan transaction in violation of this article shall be subject to an action, which may be brought in a circuit court having jurisdiction, by the borrower seeking damages, reasonable attorneys fees and costs: Provided, That this action may not be brought if the violation is due to a violation of subdivisions (j)(3) or (m)(8), section eight of this article for a mortgage modification or refinancing loan made after May 1, 2009, in participation with and in compliance with the federal Making Homes Affordable program, or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement.

(d) A licensee who, when acting in good faith in a lending transaction, inadvertently and without intention, violates any provision of this article or fails to comply with any provision of this article, will be excused from such violation if within thirty days of becoming aware of such violation, or being notified of such violation, and prior to the institution of any civil action or criminal proceeding against the licensee, the licensee notifies the borrower of the violation, makes full restitution of any overcharges, and makes all other adjustments as are necessary to make the lending transaction comply with this article.”

And,

On page one, following the enacting clause, by striking the enacting section in its entirety and inserting in lieu thereof the following:

“That §31-17-8 and §31-17-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted as follows” and a colon.

The bill was then ordered to third reading.

S. B. 384, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 459, Requiring county board of education to pay tuition to Mountaineer Challenge Academy; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 468, Allowing lender charge and receive interest on rescindable loan during rescission period; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 493, Allowing creation of self-settled spendthrift trusts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 505, Exempting certain uses of field gas from motor fuel excise taxes; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk, on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-14C-9a, to read as follows:

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-9a. Additional exemptions from tax.

(a) Additional per se exemptions from flat rate component of tax. — In addition to the provisions of section nine of this article, sales of motor fuel to the following, or as otherwise stated in this subsection, are exempt per se from the flat rate of the tax levied by section five of this article and the flat rate may not be paid at the rack:

Field gas used as fuel to run drilling equipment, compressor engines and other stationary internal combustion engines not used on the roads of this state. For purposes of this exemption, ‘field gas’ means ‘natural gas’ or any derivative thereof, extracted from a production well, storage well, gathering system, pipeline, main or transmission line that is used as fuel to power field equipment. The term ‘field gas’ does not include compressed natural gas, liquefied natural gas, liquefied petroleum gas, gasoline, diesel, kerosene or other fuels used to power motor vehicles.

(b) Additional per se exemptions from variable component of tax. — In addition to the provisions of section nine of this article, sales of motor fuel to the following are exempt per se from the variable component of the tax levied by section five of this article and the variable component may not be paid at the rack:

Field gas used as fuel to run drilling equipment, compressor engines and other stationary internal combustion engines not used on the roads of this state. For purposes of this exemption, ‘field gas’ means ‘natural gas’ or any derivative thereof, extracted from a production well, storage well, gathering system, pipeline, main or transmission line that is used as fuel to power field equipment. The term ‘field gas’ does not include compressed natural gas, liquefied natural gas, liquefied petroleum gas, gasoline, diesel, kerosene or other fuels used to power motor vehicles.”

On motion of Delegate Ireland, the Finance Committee amendment was amended on page one, section nine-c, subsection (a), line six, after the word “state”, by changing the period to a colon and inserting the following proviso: “*Provided*, That any royalty payments shall have

previously been paid to the appropriate mineral owners pursuant to the terms of any existing lease.”

And,

On page one, section nine-c, subsection (b), line sixteen, after the word “state” by changing the period to a colon and inserting the following proviso: “*Provided*, That any royalty payments shall have previously been paid to the appropriate mineral owners pursuant to the terms of any existing lease.”

The Finance Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 516, Relating to registration for selective service; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 545, Relating to asbestos abatement on oil and gas pipelines; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 595, Relating to retirement credit for members of WV National Guard; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 599, Relating generally to Uniform Unclaimed Property Act; on second reading, coming up in regular order, was read a second time.

Delegate Walters moved to amend the bill on page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

**“ARTICLE 13D. UNCLAIMED LIFE INSURANCE BENEFITS
ACT.**

§33-13D-1. Definitions.

(a) Definitions. — For purposes of this section:

(1) ‘Account owner’ means the owner of a retained asset account who is a resident of this state.

(2) ‘Annuity contract’ means an annuity contract issued in this state. The term ‘annuity contract’ shall not include an annuity used to fund an employment-based retirement plan or program where: (1) The insurer does not perform the record-keeping services; or (2) the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(3) ‘Death Master File’ means the United States Social Security Administration’s Death Master File or any other database or service that is at least as comprehensive as the United States Social Security Administration’s Death Master File for determining whether a person has died.

(4) ‘Death Master File match’ means a search of the Death Master File that results in a match of the person’s first and last name and Social Security number or the first and last name and date of birth of an insured, annuity owner or retained asset account holder.

(5) ‘Knowledge of death’ shall, for the purposes of this section, mean: (a) Receipt of an original or valid copy of a certified death certificate; or (b) a Death Master File match validated by the insurer in accordance with section two of this article.

(6) ‘Person’ means the policy insured, annuity contract owner, annuitant or account owner, as applicable under the policy, annuity contract or retained asset account at issue in this act.

(7) ‘Policy’ means any policy or certificate of life insurance issued in this state that provides a death benefit. The term ‘policy’ shall not include: (i) Any policy or certificate of life insurance that provides a

death benefit under an employee benefit plan: (a) subject to the Employee Retirement Income Security Act of 1974, as periodically amended; or (b) under any federal employee benefit program: or (ii) any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement; or (iii) any policy or certificate of credit life or accidental death insurance; or (iv) any policy issued to a group master policyholder for which the insurer does not provide record-keeping services.

(8) 'Record-keeping services' means those circumstances under which the insurer has agreed with a group policy or contract customer to be responsible for obtaining, maintaining and administering in its own or its agents' systems information about each individual insured under an Insured's group insurance contract (or a line of coverage thereunder), at least the following information: (1) Social Security number or name and date of birth; and (2) beneficiary designation information; (3) coverage eligibility; (4) benefit amount; and (5) premium payment status.

(9) 'Retained asset account' means any mechanism whereby the settlement of proceeds payable under a policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check- or draft-writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity contract benefits other than death benefits.

§33-13D-2. Insurer conduct.

(a) An insurer shall perform a comparison of its insureds' in-force policies, annuity contracts and account owners against a Death Master File to identify potential death master file matches of its insureds, annuitants and account owners, on at least an annual basis, by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons to identify potential Death Master File matches. The comparison using the full Death Master File should

be completed within two years of the effective date of this article and must be completed on policies in force as of 1986, and all policies issued thereafter: *Provided*, That the Insurance Commissioner shall promulgate legislative rules requiring that the comparison against a Death Master File be completed on policies issued at earlier times if the commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective to match to the established Master Death Database.

(b) The insurer comparison of policies, annuity contracts and account owners shall be conducted first to the extent that such records are available electronically and then using the most easily accessible insurer data for records that are not available electronically.

(c) This section shall not apply to policies or annuity contracts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of active premium payment within the eighteen months immediately preceding the Death Master File comparison.

(d) Nothing in this section shall limit the insurer from requesting a valid death certificate as part of any claims validation process.

(e) For those potential matches identified as a result of a Death Master File match, or if an insurer learns of the possible death of a person otherwise, then the insurer shall, within ninety days of a Death Master File match:

(1) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the person against other available records and information;

(2) Review its records to determine whether the deceased person has any other products with the insurer;

(3) Determine whether benefits may be due in accordance with any applicable policy, annuity contract or retained asset account.

(f) Every insurer shall implement procedures to account for:

(1) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(2) Compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names;

(3) Transposition of the 'month' and 'date' portions of the date of birth; and

(4) Incomplete Social Security number.

(g) If the beneficiary or other authorized representative has not communicated with the insurer within the ninety-day period, the insurer shall take reasonable steps and use good faith efforts, which shall be documented by the insurer, to locate and contact the beneficiary or beneficiaries or other authorized representative on any such policy, annuity contract or retained asset account, including, but not limited to, sending the beneficiary information regarding the insurer's claims process, including the need to provide an official death certificate if applicable under the policy, annuity contract or retained asset account.

(h) To the extent permitted by law, the insurer may disclose minimum necessary personal information about a person or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(i) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File search or verification of Death Master File match conducted pursuant to this section.

(j) The benefits from a policy, annuity contract or a retained asset account, plus any applicable accrued contractual interest shall first be

payable to the designated beneficiaries or owners, and in the event said beneficiaries or owners cannot be found, shall be paid to the state as unclaimed property pursuant to article eight, chapter thirty-six of this code.

(k) The West Virginia Office of the Insurance Commissioner has exclusive authority to promulgate such rules and regulations as may be required or reasonably necessary to implement the provisions of this section.

(l) The commissioner may, in his or her reasonable discretion, make an order to:

(1) Limit an insurer's Death Master File comparisons required under subsection (a) of this section to the insurer's electronic searchable files or approve a plan and timeline for conversion of the insurer's files to searchable electronic files upon a demonstration of hardship by the insurer;

(2) Exempt an insurer from the Death Master File comparisons required under subsection (a) of this section or permitting an insurer to perform such comparisons less frequently than annually upon a demonstration of hardship by the insurer; or

(3) Phase-in compliance with this section according to a plan and timeline approved by the commissioner.”

Delegate Shott arose to a point of order as to the germaneness of the amendment.

To the point of order the Speaker replied, stating that the purpose of the amendment was not germane to the fundamental purpose of the bill.

Delegate Rowe submitted an amendment, and by unanimous consent, reformed the amendment as follows:

On page two, section two, line thirty, following the words “is based”, by striking out the colon, and the words “*Provided, That the*”, and inserting a period, and the following:

“To determine if insurance proceeds are unclaimed, an insurer for its life policies, contracts and accounts shall perform a comparison against the master death file maintained by the United State Social Security Administration within twelve months of the effective date of this section for the period of January one, one thousand nine hundred eighty-six to present. After the initial comparison, such comparisons shall be made at least annually. The”.

On the adoption of the amendment, Delegate Rowe demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 455**), and there were—yeas 49, nays 50, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Butler, Byrd, Campbell, Canterbury, Caputo, Deem, Eldridge, D. Evans, Faircloth, Fast, Ferro, Flanigan, Fleischauer, Fluharty, Guthrie, Hamilton, Hartman, Hicks, Hornbuckle, Kurcaba, Longstreth, Lynch, Manchin, Marcum, Miley, Moffatt, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Sponaule, Statler, Storch, Walters and P. White.

Absent and Not Voting: Trecost.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities; on second reading, coming up in regular order, was reported by the Clerk.

Delegate Cowles asked unanimous consent that the bill be advanced to third reading with amendments pending, and with the restricted right to amend by Delegate Shott, which consent was not given, objection being heard.

Delegate Cowles moved that the bill be advanced to third reading with amendments pending, and with the restricted right to amend by Delegate Shott.

Whereupon,

Delegate Cowles asked and obtained unanimous consent that the motion be withdrawn.

Delegate Cowles then asked and obtained unanimous consent that the bill be postponed one day.

S. B. 613, Defining total capital for purposes of calculating state-chartered bank's lending limit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 614, Conforming statute with court interpretation by replacing "unconscionable" with "fraudulent" when referring to conduct; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 634, Creating William R. Laird IV Second Chance Driver's License Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two,

after the enacting section, by striking the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 7. SECOND CHANCE DRIVER’S LICENSE PROGRAM.

§17B-7-1. Short Title.

This article is known as and may be cited as the William R. Laird IV Second Chance Driver’s License Act.

§17B-7-2. Legislative findings and purpose.

(a) The Legislature finds that allowing individuals who have been unable to obtain a driver’s license or to have their driver’s licenses reinstated due to unpaid court costs will better enable these individuals to return to the workforce and repay unpaid court costs in a timely manner.

(b) The purpose of this article is to create a program that allows the commissioner to temporarily stay a driver’s license suspension or revocation for individuals who are accepted into the second chance driver’s license program if the individual thereafter remains current in the repayment of unpaid court costs as required by the program.

§17B-7-3. Definitions.

For the purposes of this article:

(1) ‘Commissioner’ means the Commissioner of the Division of Motor Vehicles, or his or her designee;

(2) ‘Consolidated repayment schedule’ means the schedule by which a participant is expected to make monthly payments for unpaid court costs consistent with the requirements of the program as established by the director;

(3) ‘Court’ means a municipal court, magistrate court, circuit court, family court or drug court in the State of West Virginia and the Supreme Court of Appeals of West Virginia;

(4) ‘Director’ means Director of the Division of Justice and Community Services, or his or her designee;

(5) ‘Good standing’ means compliance by a participant with the requirements of the program, as set forth in this article and legislative rules promulgated hereunder;

(6) ‘Monthly payment’ means the amount that a participant is scheduled to remit to the director each month pursuant to the consolidated repayment schedule;

(7) ‘Participant’ means a person who applies for, and is accepted into, the second chance driver’s license program by the director;

(8) ‘Second chance driver’s license program’ or ‘program’ means the program created under this article that establishes a payment structure for a participant to consolidate unpaid court costs into monthly payments over a defined period of time, coordinates the acceptance and distribution of monthly payments from a participant, and certifies that a participant in good standing is eligible for a temporary stay of a driver’s license suspension or revocation due to certain unpaid court costs; and

(9) ‘Unpaid court costs’ means any fee, fine, expense, cost or other moneys that are required to be paid by a person to a court, pursuant to one or more valid court orders, and have not been paid in full.

§17B-7-4. Second chance driver’s license program established; creation and administration by director; program eligibility.

(a) There is hereby established the second chance driver’s license program, which shall be administered by the director pursuant to the requirements of this article.

(b) To be eligible to participate in the program, a person must:

(1) Have his or her driver's license suspended or revoked for failure to remit unpaid court costs pursuant to section three-a or section three-c, article three, chapter seventeen-b of this code;

(2) Be at least twelve months delinquent in payment of unpaid court costs to a court or courts;

(3) Not have any unpaid court costs incurred from charges that involve driving a commercial motor vehicle or which otherwise violate the commercial driver's license requirements in chapter seventeen-e of this code; and

(4) Meet other eligibility requirements established pursuant to the rules developed under section nine of this article.

§17B-7-5. Program acceptance; development of consolidated repayment schedule; no other court fee payments required.

(a) A person wishing to participate in the second chance driver's license program shall complete an application form prepared by the director.

(b) Upon receipt of a person's application, the director shall coordinate with the courts and the commissioner to verify the total amount of the applicant's unpaid court costs in the State of West Virginia at the time of the application.

(c) All courts shall provide a full accounting of all unpaid court costs assignable to the applicant within thirty days of the request of the director. The accounting shall separately identify the portion of the court costs that constitute a fine, forfeiture or penalty remaining unpaid by the applicant for each order of the court for which unpaid balances remain.

(d) Any unpaid court costs not reported to the director by a court as provided by subsection (c) of this section may not be collected separately by the court during the time in which the applicant is a participant in the program.

(e) If a participant completes the program, any unpaid court costs, except for unpaid fines, not submitted to the director pursuant to subsection (c) of this section shall be deemed waived unless the unpaid court costs were part of an order entered after the date upon which the director requested information for a participant. The driver's license suspension or revocation with respect to any unpaid fine not reported by a court shall be released upon completion of the program by the participant.

(f) Within thirty days after receipt of information concerning unpaid court costs, the director shall determine if the applicant is eligible to participate in the program. Upon determination, the director shall promptly notify the applicant of his or her acceptance into the program.

(g) Upon acceptance of the applicant as a participant in the program, the director shall develop a consolidated repayment schedule for the participant, which will require the participant to remit payments on a monthly basis to the director according to guidelines established by the director in legislative rules, subject to the following conditions:

(1) The monthly payment shall be determined based on the participant's monthly income and expenditures, but may not be less than \$50 per month; and

(2) The consolidated repayment schedule shall require full payment of the unpaid court costs within one year.

(h) The consolidated repayment schedule may be amended to reflect changes in a participant's circumstances.

(i) The director, in his or her discretion, may permit a hardship waiver of the requirements of subsection (g) of this section, upon a determination that the applicant's circumstances may have changed, and that the objectives of this article are best accomplished if the consolidated repayment schedule requires a lesser monthly payment or a longer period of time to remit the unpaid court costs: *Provided*, That the director may not waive the total amount of unpaid court costs submitted by the courts according to subsection (a) of this section.

(j) Upon acceptance into the program, a participant in good standing with the program is under no obligation to make separate or additional payments of unpaid court costs directly to a court if those unpaid court costs are included in the consolidated repayment schedule.

§17B-7-6. Payments to be made to director; certificate of compliance; failure to comply with consolidated repayment schedule.

(a) Upon acceptance into the program and establishment of a consolidated repayment schedule, the participant shall remit monthly payments to the director in the manner prescribed by the director and in compliance with the consolidated repayment schedule.

(b) Upon receipt of the first monthly payment required by the participant's consolidated repayment schedule, the director shall issue to the commissioner, in writing or electronically, a certificate of compliance verifying the participant's good standing in the program.

(c) If a participant fails to make a monthly payment within thirty days of a deadline set by the consolidated repayment schedule, the director shall immediately issue, in writing or electronically, a certificate of noncompliance to the commissioner stating that the participant is not in good standing in the program.

(1) If a participant, after failing to make one or more timely monthly payments, remits the total amount due at that time according

to the consolidated repayment schedule, the director shall issue a certificate of compliance to the commissioner stating that the participant is once again in good standing in the program.

(2) If a participant fails to make timely monthly payments in accordance with the consolidated repayment schedule on three occasions, the director shall remove the participant from the program and shall issue a program removal notice to the commissioner and applicable courts receiving payments under the program stating that the participant is no longer a participant in the program.

(d) If a participant is convicted of a subsequent criminal offense after acceptance into the program, the director shall remove the participant from the program and, upon removal, the director shall issue a program removal notice to the commissioner and applicable courts receiving payments under the program stating that the participant is no longer a participant in the program.

(e) Upon completion of all monthly payments in the consolidated repayment schedule by the participant, the director shall issue a program completion certificate to the commissioner and the court or courts to whom the participant owed unpaid court costs under the program, stating that the participant completed the program in good standing.

(f) Upon receipt of a program completion certificate by the director stating that the participant has completed the program in good standing, the court or courts whose unpaid court costs were paid according to the consolidated repayment schedule shall enter an order acknowledging payment in full of the unpaid court costs.

§17B-7-7. Stay of driver's license suspension or revocation.

(a) Upon receipt of a certificate of compliance prepared by the director, the Division of Motor Vehicles shall stay the participant's driver's license suspension or revocation for unpaid court costs:

Provided, That the participant's drivers license shall be subject to restrictions upon where and when the participant may operate a motor vehicle during this stay of the suspension or revocation, as determined by the Commissioner.

(b) The Division of Motor Vehicles may require retesting for a driver's license for any participant who has not had a valid driver's license within the six months prior to the date of receipt of the certificate of compliance. Notwithstanding any other provision of the code to the contrary, a participant shall not be required to pay any fees to the Division of Motor Vehicles for retesting.

(c) Upon receipt of a certificate of noncompliance prepared by the director, the commissioner shall remove the stay of the participant's driver's license suspension or revocation until further notice from the director regarding the participant's status in the program.

(d) Upon receipt of a program removal notice issued by the director, the commissioner shall remove the stay of the participant's driver's license suspension or revocation.

(e) Notwithstanding any other provision of code to the contrary, no participant in the program shall be required to pay any reinstatement fees for unpaid court costs within the scope of the consolidated repayment schedule.

§17B-7-8. Second chance driver's license program account created.

There is hereby created in the State Treasury an account to be known as the Second Chance Driver's License Program Account. The account shall consist of all moneys received from individuals participating in the program. The fund shall be administered by the Division of Justice and Community Services solely for the purposes of this article. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Funds in the account shall not be invested, used, withdrawn or transferred out of

the account except for the purposes allowed in the provisions of this article.

§17B-7-9. Deposit of funds into account; disbursement of funds from account.

(a) The director shall deposit all money received from participants pursuant to a consolidated repayment schedule into the Second Chance Driver's License Program Account. The director shall prorate, separate and identify the portion of each payment that constitutes payment of a fine, forfeiture or penalty in accordance with the information provided to the director pursuant to subsection (c), section five of this article.

(b) After deposit of a participant's monthly payment into this account, the director shall make disbursements from this account as follows:

(1) Portions of payments identified as payment of a fine, forfeiture or penalty shall be disbursed to the courts identified in the repayment schedule;

(2) Ninety-five percent of the portions of the payments remaining after payment as required in subdivision (1) of this subsection shall be disbursed to the courts identified in the participant's consolidated repayment schedule. Courts shall accept and document these payments of ninety-five percent of the total unpaid court costs, not including court costs received pursuant to subdivision (1) of this subsection, as payment in full of the amount owed by the participant to the court for this portion of court costs owed; and

(3) The portion of the payments remaining in the account after payment of the court costs in subdivisions (1) and (2) of this subsection may be appropriated by the Legislature to be expended for costs incurred by the director in the administration of this article.

(c) Courts that receive disbursements pursuant to subsection (b) of this section are responsible for making statutory disbursements of

amounts received in satisfaction of unpaid court costs according to the requirements of the code.

§17B-7-10. Rule-making authority.

(a) To implement the provisions of this article, the director, in consultation with the commissioner, shall promulgate emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code, which shall include, but not be limited to, the following:

(1) The form, content and information required to be furnished in the application forms;

(2) The procedure and requirements of the eligibility review process;

(3) Guidelines for creation of a consolidated repayment schedule of unpaid court costs;

(4) Terms and conditions for acceptance into the program, maintenance of good standing, and completion of the program;

(5) Forms for certificates of compliance, certificates of noncompliance, program removal notice and program completion certificate; and

(6) The procedures for removal or suspension from the program.

(b) To implement the provisions of this article, the commissioner shall promulgate emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code, which may include, but are not limited to, the following:

(1) Establishing the procedures for issuing a stay of a participant's driver's license suspension or revocation; and

(2) Establishing the restrictions upon where and when a participant may utilize his or her driver's license to operate a motor vehicle during the stay of the suspension or revocation authorized by this article."

The bill was then ordered to third reading.

Com. Sub. for S. B. 691, Modifying certain air pollution standards; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

S. B. 107, Uniform Interstate Depositions and Discovery Act,

Com. Sub. for S. B. 157, Authorizing Department of Revenue to promulgate legislative rules,

Com. Sub. for S. B. 159, Authorizing promulgation of legislative rules by miscellaneous boards and commissions,

Com. Sub. for S. B. 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings,

Com. Sub. for S. B. 267, Modifying removal procedure for certain county, school district and municipal officers,

Com. Sub. for S. B. 270, Repealing code relating to insurance policies,

Com. Sub. for S. B. 291, Law enforcement use of unmanned aircraft systems,

Com. Sub. for S. B. 293, Neighborhood Investment Program Act,

Com. Sub. for S. B. 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays,

Com. Sub. for S. B. 339, Establishing Judicial Compensation Commission,

S. B. 345, Relating to parking on state-owned or leased property,

Com. Sub. for S. B. 361, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly,

Com. Sub. for S. B. 378, Relating to truancy intervention,

S. B. 431, Authorizing pharmacists and pharmacy interns dispense opioid antagonists,

S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders,

Com. Sub. for S. B. 504, Relating to confidentiality of juvenile records,

Com. Sub. for S. B. 517, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner,

Com. Sub. for S. B. 539, Relating to condemnation proceedings,

S. B. 563, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members,

Com. Sub. for S. B. 567, Providing protection against property crimes committed against coal mines, railroads, utilities and other industrial facilities,

S. B. 588, Repealing certain obsolete legislative rules by Department of Transportation,

Com. Sub. for S. B. 602, Relating to Patient Injury Compensation Fund,

Com. Sub. for S. B. 619, 2016 Regulatory Reform Act,

Com. Sub. for S. B. 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage,

Com. Sub. for S. B. 686, Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction,

S. B. 702, Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing estate,

Com. Sub. for H. B. 4017, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

H. B. 4741, Expiring funds to the Division of Human Resources, Medical Services Trust Fund,

And,

H. B. 4742, Expiring funds to the Division of Human Resources, Medical Services Trust Fund from various accounts.

At 4:48 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 7:00 p.m.

* * * * *

Evening Session

* * * * *

Messages from the Executive

The Speaker laid before the House the following communications, which was read by the Clerk as follows:

State of West Virginia
EXECUTIVE DEPARTMENT
Charleston

A P R O C L A M A T I O N

By the Governor

Whereas, The Constitution of West Virginia sets forth the respective powers, duties and responsibilities of the three separate branches of government; and

Whereas, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January, two thousand sixteen; and

Whereas, Pursuant to Article VI, Section 22 of the Constitution of West Virginia, the 2016 regular session of the Legislature is scheduled to conclude on the twelfth day of March, two thousand sixteen; and

Whereas, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

Whereas, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a Proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

Whereas, The Budget Bill has not been finally acted upon by the Legislature as of this ninth day of March, two thousand sixteen.

NOW, THEREFORE, I, EARL RAY TOMBLIN, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D Article VI, Section 51 of the

Constitution of West Virginia, to extend the two thousand sixteen regular session of the Legislature for an additional period not to exceed three days, through and including the fifteenth day of March, two thousand sixteen; but no matters other than the Budget Bill shall be considered during this extension of the session, except providing for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, on this the ninth day of March, in the year of our Lord, Two Thousand Sixteen, and in the One Hundred Fifty-Third year of the State.

Earl Ray Tomblin,
Governor.

By the Governor:

NATALIE E. TENNANT,
Secretary of State.

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

EXECUTIVE MESSAGE NO. 2
2016 REGULAR SESSION

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

Accountancy, West Virginia Board of; Annual Report FY June 30, 2014 – June 30, 2015

Acupuncture, West Virginia Board of; Annual Report 2014-2015 Fiscal Year

Aeronautic Commission, West Virginia; Annual Report 2015

Alcohol Beverage Control Administration, West Virginia Department of Revenue; Annual Report FY 2015

Architects Board, State of West Virginia; Annual Report Fiscal Years 2013 & 2014; 2014 Fiscal year fee schedule

Attorney General, Office of the; Annual Report 2015

Barbers & Cosmetologists, Board of; Annual Report 2015

Benedum Foundation; Annual Report 2014

Boxley; Sustainability Report 2014

Chiropractic, West Virginia Board of; Biennium Report July 1, 2013-June 30, 2015

Citizen Review Panel, West Virginia; Annual Report October 1, 2014-September 30, 2015

Closing the Expectations Gap: Achieve- National Education Summit on High Schools; Annual Report 2014

Coal Mine Health & Safety, Board of; Annual Report 2015

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; Annual Report 2015

Consumer Advocate Division, Public Service Commission; Annual Report 2016

Consumer Protection and Antitrust Division, West Virginia Attorney General; Annual Report November 20, 2014-November 19, 2015

Consumer Advocate, West Virginia Insurance Commission, Office of the; Annual Report 2015

Contractors Association of West Virginia; Annual Report 2015

Corrections, West Virginia Department of Military Affairs & Public Safety, Division of; Annual Report 2015

Counseling, West Virginia Board of; Annual Report 2013-2015

Crime Victims Compensation Fund, Court of Claims; Annual Report 2015

Deaf and Hard of Hearing, West Virginia Commission for the; Annual Report 2015

Dietitians, West Virginia Board of Licensed; Annual Report FY 2015

Drinking Water Treatment Revolving Fund, West Virginia; Annual Report year ending June 30, 2015

Energy, West Virginia Division of; Annual Report December 2014-November 2015

Engineers, West Virginia Board of Registration for Professional; Annual Report 2015

Entrepreneurial Studies & Development, Center of; WV Listening Tour Summary Report 2014

Environmental Protection, Department of; Annual Report Fiscal Year 2013-14

Family Protection Services Board; Annual Report 2013-2014

Financial Institutions, West Virginia Division of; Annual Report FY June 30, 2015

Fire Commission, West Virginia State; Annual Report FY 2015

Greater Kanawha Valley Foundation; Annual Report 2015 Annual Report

Grievance Board, West Virginia Department of Administration, Public Employees; Annual Report 2015

Health Care Authority, West Virginia; Annual Report 2015

Hearing Aid Dealers Licensure Board, West Virginia; Annual Report Fiscal Year 2014-2015

Herbert Henderson Office of Minority Affairs; Annual Report 2015

Infrastructure & Jobs Development Council, West Virginia; Annual Report year ended June 30, 2015

Insurance Commissioner, West Virginia Office of; Annual Report 2014

Interstate Insurance Product Regulation Commission (IIPRC); Annual Report 2014 period ending December 31, 2014

Interstate Mining Compact Commission; Annual Report 2014

James “Tiger” Morton Catastrophic Illness Commission; Annual Report 2015

JP Morgan Chase and Co.; Annual Report 2014

Lincoln Primary Care Center, Inc.; Annual Report 2015

Lottery, West Virginia; Annual Report FY June 30, 2015 and 2014

Martin Luther King Jr., State Holiday Commission; Annual Report 2015

Massage Therapy Licensure Board, West Virginia; Annual Report 2015 Fiscal Year

Medical Imaging & Radiation Therapy Technology BOE, West Virginia; Annual Report FY 2014-2015

Medical Malpractice Report, Insurance Commissioner, State of West Virginia; Annual Report 2015

Medicine, West Virginia Board of; Biennium Report July 1, 2013-June 30, 2015

Miners’ Health, Safety & Training, West Virginia Department of Commerce, West Virginia Office of; Annual Report FY 2014

Municipal Home Rule Board; Annual Report January 1, 2015-December 31, 2015

National Guard Youth Foundation; Mid-Year-Report 2015

National Shooting Sports Foundation, Inc.; Impact Report on Firearms & Ammunition Industry 2014

National Shooting Sports Foundation, Inc.; Annual Report 2015

Natural Resources, West Virginia Division of; Annual Report 2014-2015

Nurses Board, West Virginia Registered; Biennium Report July 1, 2013-June 30, 2015

Nursing Home & Assisted Living Facilities in West Virginia; Annual Report October 1, 2013-September 30, 2014

Nursing Home Administrators Licensing Board, West Virginia; Annual Report FY 2015

Ohio River Valley Water Sanitation Commission; Annual Report FY 2015

Potomac River Basin, Interstate Commission on the; Financial Statement October 1, 2013-September 30, 2014

Privacy Office, West Virginia State; Annual Report 2015

Public Defender Services, West Virginia Department of Administration; Annual Report FY-2015

Public Utility Assessments, State of West Virginia; Tax Year 2016

Racing Commission, Department of Revenue, West Virginia; Annual Report 2014

Real Estate Appraiser Licensing and Certification Board, West Virginia; Annual Report FY 2014-2015

Real Estate Commission; Annual Report 2015

Region 4 Planning and Development Council; Comprehensive Economic Development Strategy (CEDS) Five Year Plan 2014-2018

Rehabilitation Facilities, West Virginia Association of; Annual Report FY 2015

Rehabilitation Services, WV Statewide Independent Living Council, West Virginia Department of; Annual Report 2015

Rehabilitation Services, West Virginia Division of; Annual Report 2015

Retirement Board, WV State Police Disability Experience, West Virginia Consolidated Public; Annual Report FY 2015

Sanitarians, West Virginia Board of; Annual Report 2015

Statewide Independent Living Council; Annual Report Fiscal Year 2014, October 1, 2014-September 30, 2014

Tax Department, West Virginia State Tax; Expenditure Study 2016

Tax Department, West Virginia; 51st Biennial Report

Tax Increment Financing: Development Office: Department of Commerce; Annual Report 2014 year ended June 30, 2014

Treasury Investments, West Virginia Board of; Annual Report year ended June 30, 2015

Veterinary Medicine, West Virginia Board of; Biennium Report July 1, 2013-June 30, 2015

Water & Waste Management's Groundwater Program, West Virginia Department of Environmental Protection, Division of; Biennial Report, July 2, 2013-June 30, 2015

Water Development Authority, West Virginia; Annual Report FY 2015

Water Development Authority, West Virginia, West Virginia; Annual Report year ended June 30, 2015

West Virginia Association of Counties; Annual Report FY 2014-2-15

Women's Commission, West Virginia; Annual Report 2015

Youth Services, Department of Health and Human Resources,
Bureau of Children and Families, West Virginia; Annual Report FY
2014

Very truly yours,

Earl Ray Tomblin,
Governor.

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 8, 2016

EXECUTIVE MESSAGE NO. 3

2016 REGULAR SESSION

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 14, 2015 through March 8, 2016.

Very truly yours,

Earl Ray Tomblin,
Governor.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, and changed the effective date, to take effect from passage, a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4171, Relating to the public school calendar.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 456**), and there were—yeas 77, nays 2, absent and not voting 21, with the nays and absent and not voting being as follows:

Nays: Espinosa and Upson.

Absent and Not Voting: Deem, A. Evans, Flanigan, Gearheart, Hamilton, Lane, Marcum, Moore, Morgan, J. Nelson, Perdue, Phillips, Reynolds, Rodighiero, Romine, Shott, Skinner, Statler, Westfall, B. White and P. White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4171) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

H. B. 4246, Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 4340, Amending licensing requirements for an act which may be called Lynette's Law.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 4345, Repealing the West Virginia Permitting and Licensing Information Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

H. B. 4417, Increasing wages protected from garnishment.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

H. B. 4651, Relating to professional examination requirements for hearing-aid dealers and fitters.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 104, Classifying Marshall University Forensic Science Center as a criminal justice agency.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 334, Identifying coyote as fur-bearing animal and woodchuck as game animal.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 343, Authorizing prosecuting attorneys designate law-enforcement officers and investigators as custodians of records.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Weld, McCuskey and Fleischauer.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

S. B. 349, Updating meaning of federal adjusted gross income.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 469, Clarifying what personal funds are exempt from levy following judgment.

Motions

Delegate Cadle submitted a written motion that the House reconsider its earlier action on Com. Sub. for S. B. 599 and that the bill be returned to second reading and that the House reconsider the amendment to the bill.

On this question, the House divided and the motion to reconsider was rejected.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 272, Allowing investigators from Attorney General's office to carry concealed weapons,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

S. B. 578, Protecting utility workers from crimes against person,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate McCuskey, 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 9th day of March, 2016, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 27), Permitting county commissions hire outside attorneys for collection of taxes through courts,

(Com. Sub. for S. B. 254), Not allowing county park commissions to prohibit firearms in facilities,

(Com. Sub. for S. B. 379), Relating to candidate filing fees,

And,

(S. B. 509), Removing 10-day requirement Division of Labor has to inspect amusement rides and attractions.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 427, Transferring funds from State Excess Lottery Fund to Department of Revenue,

And reports the same back, with the recommendation that it do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 404, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 278, Clarifying physicians' mutual insurance company is not state or quasi-state actor,

And reports the same back with the recommendation that it do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 465, Allowing professional employer insure certain risks through pure insurance captive,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

On motion of Delegate Cowles, S. B. 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters, was taken up for further consideration.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (S. B. 618) was then taken up for immediate consideration, read a first time and ordered to second reading.

Miscellaneous Business

Delegate Moffatt filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. C. R. 101.

Delegate Bates noted to the Clerk that he was absent when the vote was taken on Roll No. 439, and that had he been present, he would have voted "Yea" thereon.

Delegate Ireland noted to the Clerk that he was absent when the vote was taken on S. B. 43, and that had he been present, he would have voted "Yea" thereon.

Delegate Kelly announced that he was absent when the vote was taken on Roll No. 440, and that had he been present, he would have voted "Yea" thereon.

Delegate Guthrie noted to the Clerk that she was absent when the votes were taken on Roll Nos. 438 and 439, and that had she been present, she would have voted "Yea" thereon.

Delegate Hill asked and obtained unanimous consent that the remarks of Delegate McCuskey regarding S. B. 416 be printed in the Appendix to the Journal.

Delegate P. Smith filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. C. R. 36.

At 8:08 p.m., the House of Delegates adjourned until 9:30 a.m., Thursday, March 9, 2016.

THURSDAY, MARCH 10, 2016

FIFTY-EIGHTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 9:30 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Wednesday, March 9, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 9th day of March, 2016, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4228), Relating to transportation network companies.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. J. R. 14, Right to Farm and Ranch Amendment,

And reports the same back with the recommendation that it be adopted.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. C. R. 36, Applying for an Article V Amendments Convention to propose a Constitutional amendment,

And reports the same back with the recommendation that it be adopted.

Resolutions Introduced

Delegates Ambler, Blackwell, Campbell, Cooper, Duke, Ellington, Espinosa, D. Evans, Hamrick, Hicks, Hornbuckle, Kelly, Kurcaba, Moye, Perdue, Perry, Rodighiero, Rohrbach, Rowan, Statler, Trecost, Upson, Wagner and Westfall offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 112 — “Requesting the Joint Committee on Government and Finance study interscholastic student athlete safety issues relating to the development of emergency action plans and policies that would enhance the protection of student-athletes’ health and safety in boys’ and girls’ interscholastic athletic practices and games in the State of West Virginia.”

Whereas, The West Virginia Department of Education and the West Virginia Secondary Schools Activities Commission strive to protect the health and safety of their student-athletes during all practices and games; and

Whereas, Coaches of all sports should endeavor to conduct programs in a manner designed to address the physical well-being of student-athletes; and

Whereas, Students are more likely to face unnecessary injuries and tragic deaths when emergency policies and procedures are not in place; and

Whereas, Injuries such as concussion, heat illness, and cardiac arrest present a significant threat to the lifetime health and wellness of student athletes; and

Whereas, In order to provide protection to student athletes, schools are encouraged to have health care professionals such as athletic trainers at competitive athletic practices and games; and

Whereas, The states of Arkansas, North Carolina and Texas have passed legislation requiring that school districts develop and implement emergency plans to ensure that the best care is provided to student athletes throughout the state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study interscholastic student athlete safety issues relating to the development of emergency action plans and policies that would enhance the protection of student athletes' health and safety in girls' and boys' interscholastic athletic practices and games in the State of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate any recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Espinosa, Householder, Upson, McGeehan, Storch, Zatezalo and Guthrie offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 113 — “Requesting the Joint Committee on Government and Finance to establish a select committee to study all aspects of the lottery, gaming and live racing industry in West Virginia.”

Whereas, West Virginia’s lottery, gaming and live racing industries have become significant revenue sources for the State of West Virginia, as well as providing thousands of jobs to West Virginians; and

Whereas, The live racing industry has a long and storied history, beginning in 1787 when George Washington’s youngest brother Charles raced horses through the streets of what would become Charles Town, West Virginia; and

Whereas, Formal horse racing tracks were established in West Virginia some years later, with the racetrack at Charles Town opening in 1933 and the precursor to Mountaineer Racetrack being founded in 1937. West Virginia greyhound racing followed with the opening of Wheeling Downs, a facility which found its racing origin in 1937 and in 1985, Tri-State Greyhound Park, now, Mardi Gras Casino and Racetrack, opened; and

Whereas, In an effort to protect and preserve West Virginia’s celebrated racing industry and the thousands of jobs associated therewith, the West Virginia Legislature voted to allow slot-machine style video lottery in 1994, and casino-style table games in 2007, at our state’s four racetracks, with approval by the local electorate, in accord with the provisions of article twenty-two-c, chapter twenty-nine of the West Virginia Code; and

Whereas, Each of the four counties in West Virginia where a racetrack is located ultimately exercised their referendum rights under

section seven, article twenty-two-c, chapter twenty-nine of the code, and voted to approve racetrack video lottery and table games at their respective racetrack facilities based on the promise that a portion of the revenues generated would be used to preserve and protect live racing, as well as promote the industry of breeding thoroughbred horses and greyhounds while creating greenspace; and

Whereas, Invariably, after five years, section seven, article twenty-two-c, chapter twenty-nine of the code also provides for a subsequent local county recall referendum to revisit the decision by local voters to approve casino style gaming at the racetrack venues; and

Whereas, The “racinos” in West Virginia not only employ thousands of West Virginians and generate hundreds of millions of dollars of revenue for state government, the statutory structure by which they are licensed and operated, has fostered the development of live racing and breeding of thoroughbreds and greyhounds as an industry as provided in the statute; and

Whereas, Many individuals, companies, partnerships and entities have made and continue to make substantial investments in West Virginia based on the statutory framework designed to preserve and protect live racing and promote the industry of breeding of thoroughbred horses and greyhound racing stock; and

Whereas, In addition to supplementing racing and local governments, moneys generated by gaming at our state’s racetracks have been used to bolster our state’s general revenue fund as well as the state’s Development Office Promotion Fund, debt reduction funds, State Capitol improvements, the Division of Tourism, and to finance public school construction through the West Virginia School Building Authority, fund the Promise Scholarship Program, contribute to racetrack employee pensions and capital improvements for racetrack facilities; and

Whereas, West Virginia's "racino" model proved most successful, becoming a reliable source of income for the state, but now the model is confronted with declining levels of performance for West Virginia; and

Whereas, Until recent years, West Virginia's four "racinos" benefitted from modest market competition in neighboring states, thereby claiming a large portion of the gaming market east of the Mississippi River; and

Whereas, Our surrounding states have learned from our successful gaming regulations and have implemented similar models, allowing for new casino properties to open near the West Virginia's borders of Ohio, Pennsylvania and Maryland; and

Whereas, Though West Virginia's four "racinos" once enjoyed little competition for regional gaming dollars, there are now approximately twenty new casinos in neighboring states with which West Virginia's "racinos" must compete for revenues and others under yet to become active which increases the competition for regional gaming dollars; and

Whereas, Due to this competition, racing and gaming revenues upon which our state has become so dependent are decreasing at a rapid pace, which creates a diminishing amount of money for all of the distributees of money generated by "racinos" and allocated in accordance with current law; and

Whereas, In addition to the loss of revenues for the state, the jobs of thousands of West Virginia families who rely on the live racing and gaming industries for their livelihood are also at risk; and

Whereas, There may be opportunities to capture additional revenues from the live racing, gaming and lottery enterprises in West Virginia, including models from other jurisdictions involving off-track betting, Automated Deposit Wagering or ADW to allow for convenient

pari-mutuel wagering, equi-lottery, marketing West Virginia's casino and live racing enterprises to regional and national markets, evaluating and improving marketing strategies of the West Virginia Lottery, evaluating the operational efficiencies and effectiveness of the West Virginia Lottery, including a comparative analysis with similar sized lottery operations of the various states as to cost and number of employees; to evaluate privatization opportunities within the gambit of West Virginia Lottery operations from the perspective of overall effectiveness, cost savings and productivity; review and analyze the findings of the 2015 Report of the Select Committee of the West Virginia Racing Commission containing recommendations for enhancement of live racing in West Virginia; and in general review in the entirety role of, efficiency, cost and effectiveness of state government in overseeing gaming, lottery and live racing activities in West Virginia to provide greater understanding by legislative policymakers of such activities in order to better serve all of West Virginia citizens; and

Whereas, In recognition of the vitally important component they represent of the West Virginia economic and revenue base, the time has come to revisit the state's gaming, lottery and live racing industry structures to determine a course of action that is in the best interest of West Virginia and its people; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance establish a select committee consisting of ten members, being five from the House of Delegates and five from the Senate with no more than three members from each house from a single political party, to be responsible for a comprehensive study of West Virginia's racing and gaming industries as provided herein below, including recommending to and coordinating professional services procured in furtherance of the objectives herein described, conducting live hearings at sites determined by the committee to be optimum for gaining knowledge essential to making informed decisions regarding the areas of inquiry

referenced herein, and receiving the testimony of persons directly involved in all aspects of the lottery, gaming and live racing industry in West Virginia; and, be it

Further Resolved, That the select committee is hereby requested to perform a comprehensive study of West Virginia's gaming, lottery and live racing industries, which said study shall include, but not be limited to, the following objectives: (1) A review of all related laws, rules, regulations and operations associated with all facets of the West Virginia Lottery, including the advisability of privatization of operational aspects of lottery operations; (2) a review of the 2015 Report of the Select Committee of the West Virginia Racing Commission and the recommendations therein contained, along with all laws, rules and regulations of live racing of greyhounds and thoroughbred horses, with recommendations for the modernization and streamlining of the same and maximization of revenues for West Virginia and for live racing interests, including recommendations which enhance the convenience of the consuming public to engage in pari-mutuel wagering on races conducted at West Virginia's racetracks consistent with the convenience they enjoy to place bets on races in foreign jurisdictions; (3) a review of all laws, rules and regulations associated with the business of both greyhound breeding and thoroughbred breeding, with recommendations for modernization and streamlining of the same consistent with providing continuing viable opportunities for these activities as a component of West Virginia's live racing industry and the jobs it represents; (4) a comprehensive review of the flow of revenues generated from racetrack video lottery, table games and any other sources contributing to money administered by the West Virginia Lottery in the form of excess lottery proceeds as a means of information for state policymakers; (5) a comprehensive investigation of appropriate governing structures for live racing and gaming activities from neighboring jurisdictions and beyond, with a recommendation of revisions and/or statutory overhaul of the governance of all forms of gaming in West Virginia, including general lottery, adult video lottery, racetrack video lottery and table games; (6) a comparative analysis of the job functions of the West Virginia

Racing Commission with comparable agencies in jurisdictions with a similar racing presence to determine the appropriateness of staff and funding levels with recommendations as to appropriate levels of each; (7) an analysis of the staff and funding levels associated with administration of all facets of the West Virginia Lottery, recognizing its unique configuration of administering conventional lottery operations, adult video lottery, racetrack video lottery and table games, and recommendations for economizing the operations of the West Virginia Lottery consistent with the best industry practices; (8) an analysis of innovative and creative additions to West Virginia's gaming mix, including innovative and creative ways of more efficiently and profitably administering West Virginia's gaming activities, of providing m for convenient consumer access to products offered within the array of gaming products offered by West Virginia, to provide policymakers on the status of Internet gaming as a potential offering in West Virginia, and to identify any and all prospects which may enhance revenue generation by the entirety of West Virginia's gaming activities of all descriptions through new and additional games or manner of delivery of products to the lottery and gaming consuming public; (9) the continuing legal effects, if any, of referendums on gaming heretofore undertaken to approve such in Jefferson, Hancock, Ohio and Kanawha counties, as well as the legal effects, if any, to reexercise those rights as provided in the statute; and to provide all and any suggestions for the improvement, modernization, efficiency and economization of West Virginia's entire complement of gaming activities, including live racing; and, be it

Further Resolved, That stakeholder representatives in all facets of West Virginia's gaming industry of lottery, "racinos", live racing, greyhound breeding and thoroughbred breeding, along with the solicitation of input from citizens living in communities which host live racing activities, be actively engaged as part of any study process through formal information gathering such as open meetings, public hearings, and surveys constructed to gather such citizen input; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature 2017, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Espinosa and Howell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 114 — “Requesting the Joint Committee on Government and Finance to conduct an interim study on the best practices in technology procurement.”

Whereas, The State of West Virginia follows procurement statutes to efficiently and economically purchase goods and services; and

Whereas, The state’s procurement statutes were written to purchase goods and services for the state, yet are also a strategic function that can be used to control bottom-line costs, improve services to consumers, and effectively streamline tasks; and

Whereas, State procurement rules are constantly challenged by the evolving types of goods and services available to the State, some of which have become increasingly complex, particularly in the area of technology purchases and services; and

Whereas, Acquiring new technology products and services and leveraging technology the state already owns requires complex considerations for offerings which are quickly deemed obsolete and are continually evolving; and

Whereas, “Best practices” for technology purchasing are being utilized by other states and should be reviewed for possible incorporation into West Virginia’s procurement statutes; and

Whereas, Security of customer data is crucial and privacy solutions are often a basic part of licensing purchases and should be updated to protect all users from data and security breaches; and

Whereas, The State of West Virginia has had purchasing challenges in the past with significant technology upgrades such as MMIS and OASIS; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to conduct an interim study on the best practices in technology procurement; and, be it

Further Resolved, That a report of the findings, conclusions and recommendations of the study, together with drafts of any legislation necessary to effectuate the recommendations be reported to the Legislature at its 2017 Regular Session; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and draft necessary legislation are requested to be paid from legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Third Reading

S. B. 54, Altering how tax is collected on homeowners' associations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 457**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 54) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

S. B. 54 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating generally to exempting certain dues, fees and assessments from the consumer sales and services tax; and defining certain terms.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 202, Authorizing Department of Commerce promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 458**), and there were--yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Eldridge.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 202) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 202 — “A Bill to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the

Department of Commerce; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping; authorizing the Division of Natural Resources to promulgate a legislative rule relating to general hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to wild boar hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to elk restoration and management; directing the Division of Labor to promulgate rules relating to the Contractor Licensing Board; authorizing the Division of Labor to promulgate a legislative rule relating to the Elevator Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to the licensing of elevator mechanics and technicians and registration of apprentices; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to substance abuse screening standards and procedures; directing the Tourism Commission to amend and promulgate a Division of Tourism rule relating to the direct advertising grants program, repealing certain legislative and procedural rules of certain agencies and boards of the Department of Commerce; authorizing WorkForce West Virginia to promulgate a legislative rule relating to prevailing wage; the repealing the Commercial Whitewater Advisory Board legislative rule relating to commercial whitewater outfitters; repealing the Commercial Whitewater Advisory Board procedural rule relating to regulations for open governmental proceedings; repealing the Commissioner of

Employment Security legislative rule relating to regulations of the Commissioner of Employment Security; repealing the Commissioner of Employment Security legislative-rule relating to implementation of a pilot employment supplemental matching program; repealing the Division of Forestry procedural rule relating to Freedom of Information Act requests; repealing the Division of Labor legislative rule relating to the West Virginia safety code for aerial passenger tramways, lifts and tows; repealing the Division of Labor legislative rule relating to the West Virginia Prevailing Wage Act; repealing the Minimum Wage Rate Board legislative rule relating to the West Virginia Prevailing Wage Act; repealing the Division of Natural Resources legislative rule relating to shoreline camping of government owned reservoir areas in West Virginia; repealing the Division of Natural Resources legislative rule relating to special bear hunting; and repealing the Division of Natural Resources procedural rule relating to rules for open government proceedings.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 459**), and there were--yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Eldridge.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 202) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 259, Amending Unfair Trade Practices Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 460**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 259) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 259 — “A Bill to repeal §47-11A-10, §47-11A-12 and §47-11A-13 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11A-1, §47-11A-2, §47-11A-5, §47-11A-6, §47-11A-8, §47-11A-9 and §47-11A-14 of said code, all relating to unfair trade practices; providing legislative findings; designating article the Unfair Trade Practices Act; making it unlawful for a retailer or wholesaler to sell, offer for sale, or advertise for sale any product or item of merchandise at a price less than cost with the intent to destroy or the effect of destroying competition; providing that a violation of the article constitutes a misdemeanor; defining ‘retailer’ and ‘wholesaler’; providing for how cost is to be determined; providing for exemptions to cost calculations relating to federal and state motor fuel taxes; exempting certain sales, offers to sell or advertisements to sell from the provisions of the article; providing that an injured person or entity may maintain an action to enjoin continuance of any violation of the article; providing that an injured person or entity may maintain an action for damages; providing that actual damages, if alleged and proven, be assessed; providing for an absolute defense to an action to enjoin or for damages filed under the article; providing jurisdiction to the circuit courts; and providing purposes of the article.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 461**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge and Foster.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 311) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

The Committee on Finance moves to amend the bill by striking out the title and substituting therefore a new title, to read as follows:

S. B. 311 — “A Bill to amend and reenact §31-17-8 and §31-17-17 of the Code of West Virginia, 1931, as amended, all relating to exceptions from certain requirements for certain mortgage modifications or refinancing loans; authorizing exception from certain requirements for mortgage modifications or refinancing loans made in participation with and in compliance with the federal Homes Affordable Modification Program or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement; and allowing exceptions from nullification or actions brought for certain mortgage modifications or refinancing loans made in participation with and in compliance with the federal Homes Affordable Modification Program or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

S. B. 384, Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 462**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge and Foster.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 384) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 459, Requiring county board of education to pay tuition to Mountaineer Challenge Academy; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 463**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge and P. Smith.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 459) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 468, Allowing lender charge and receive interest on rescindable loan during rescission period; on third reading, coming up in regular order, was read a third time.

Delegates Marcum and Atkinson requested to be excused from voting on Com. Sub. for S. B. 468 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 464**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 468) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 468 — “A Bill to amend and reenact §46A-6K-3 of the Code of West Virginia, 1931, as amended, relating to allowing accrual of interest during rescission period on a loan during the rescission period required under the federal Truth-in-Lending Act; providing exception if the loan is rescinded; and providing exception if the loan is for the purpose of paying in full a prior loan made by the same lender.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 493, Allowing creation of self-settled spendthrift trusts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 465**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 493) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 505, Exempting certain uses of field gas from motor fuel excise taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 466**), and there were--yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Eldridge, Howell and Moffatt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 505) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

S. B. 505 — “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-14C-9a, relating to exempting from motor fuel excise tax certain uses of field gas; and defining field gas.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

S. B. 516, Relating to registration for selective service; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 467**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moffatt.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 516) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 545, Relating to asbestos abatement on oil and gas pipelines; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for S. B. 545 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 468**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 545) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 595, Relating to retirement credit for members of WV National Guard; on third reading, coming up in regular order, was read a third time.

Delegate J. Nelson requested to be excused from voting on Com. Sub. for S. B. 595 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 469**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 595) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 599, Relating generally to Uniform Unclaimed Property Act; on third reading, coming up in regular order, was read a third time.

Delegates Faircloth, Byrd and Kurcaba requested to be excused from voting on the passage of Com. Sub. for S. B. 599 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

Delegate Reynolds moved that further action on the bill be postponed one day.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 470**), and there were--yeas 86, nays 11, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Azinger, Canterbury, Cooper, Cowles, Ireland, Kelly, McGeehan, O'Neal and R. Smith.

Absent and Not Voting: Arvon, Border and Cadle.

So, a majority of the members present and voting having voted in the affirmative, the motion to postpone the bill one day was adopted.

S. B. 613, Defining total capital for purposes of calculating state-chartered bank's lending limit; on third reading, coming up in regular order, was read a third time.

Delegates Ambler, Atkinson, A. Evans, Hartman, Miller, Reynolds, Shott, P. Smith, Walters and P. White requested to be excused from voting on the passage of S. B. 613 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 471**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 613) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 614, Conforming statute with court interpretation by replacing “unconscionable” with “fraudulent” when referring to conduct; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 472**), and there were--yeas 67, nays 32, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Campbell, Caputo, Eldridge, Ferro, Flanigan, Fleischauer, Fluharty, Guthrie, Hamilton, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, Sponaugle and P. White.

Absent and Not Voting: Foster.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 614) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Com. Sub. for S. B. 622, Composition of PEIA Finance Board; on third reading, coming up in regular order was reported by the Clerk.

Delegate Cowles asked and obtained unanimous consent that the bill be placed at the foot of Third Reading.

Com. Sub. for S. B. 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 473**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 625) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 625 — “A Bill to amend and reenact §16-1-9c of the Code of West Virginia, 1931, as amended, relating to source water protection plans generally; and clarifying that public disclosure of certain information regarding potential sources of significant contamination within a zone of critical concern is permitted to the extent it is in the public domain through a federal or state agency.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 634, Creating William R. Laird IV Second Chance Driver’s License Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 474**), and there were--yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Duke, Ireland and Moffatt.

So a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 634) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 634 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7, §17B-7-8, §17B-7-9 and §17B-7-10, all relating to creation of the Second Chance Driver’s License Act; creating short title and designating that the article may be cited as the William R. Laird IV Second Chance Driver’s License Act; setting forth legislative findings and purpose; defining terms; establishing program; directing the Director of the Division of Justice and Community Services to administer program; setting eligibility requirements to become program participant; requiring application from person wishing to participate; directing the director to coordinate with officials from courts and commissioner to verify total amount of unpaid court costs; setting deadlines for providing information regarding unpaid court costs to director; requiring the courts to provide an accounting that separately identifies the portion of the court costs that constitute a fine, forfeiture or penalty; directing how unreported court costs are to be handled; requiring notification to applicant of acceptance into program; directing the director to develop consolidated repayment schedule for participant; setting requirements for consolidated repayment schedule; permitting modification of consolidated repayment schedule; permitting hardship waiver; clarifying that participant is under no obligation to make separate or additional payments directly to court if those costs are included in consolidated repayment schedule; establishing moratorium on collection of unpaid court fees by a court or its designee while a participant is in good standing with the program; requiring monthly remittance of payments to director; directing issuance of certificate of compliance, certificate of noncompliance, program removal notice and program completion certificate under certain conditions; directing Division of Motor Vehicles to place stay or lift stay on suspension or revocation of participant’s driver’s license under certain conditions; permitting Division of Motor Vehicles to require retesting under certain circumstances; exempting participants from certain retesting fees and reinstatement fees; creating Second Chance Driver’s License Program Account; providing for administration of account; directing

deposit of funds into account; authorizing expenditure of funds from account for certain purposes; and providing legislative and emergency rule-making authority.”

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for S. B. 691, Modifying certain air pollution standards; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 475**), and there were--yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 691) passed.

Delegate Cowles moved that the House recess until 1:00 p.m.

Whereupon,

Delegate Cowles then asked and obtained unanimous consent to withdraw his motion.

Delegate Cowles then asked and obtained unanimous consent to take Com. Sub. for S. B. 691 up for further consideration.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 476**), and there were--yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Canterbury, Ferro, Longstreth, Shott, Walters, B. White and Zatezalo.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 691) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 11:49 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 1:00 p.m.

* * * * *

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 622, on Third reading, Special Calendar, to the House Calendar, and Com. Sub. for S. B. 539, on Second reading, Special Calendar, to the House Calendar.

Second Reading

S. B. 107, Uniform Interstate Depositions and Discovery Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section two, line twenty-one, after the word “premises”, by inserting the words “which is”.

And,

On page two, section three, line twenty-six, after the words “the clerk”, by striking out the words “in the accordance with that court’s procedure” and inserting in lieu thereof “shall file the subpoena as a miscellaneous action, charging a filing fee therefore, and”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 157, Authorizing Department of Revenue to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment to the bill, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That article 7, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF
REVENUE TO PROMULGATE
LEGISLATIVE RULES.**

§64-7-1. Alcohol Beverage Control Commission.

(a) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section twenty-two, article sixteen, chapter eleven of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 4, 2015, relating to the Alcohol Beverage Control Commission (nonintoxicating beer licensing and operations procedures, 176 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section ten, article seven, chapter sixty of this code, relating to the Alcohol Beverage Control Commission (private club licensing, 175 CSR 2), is authorized.

(c) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section sixteen, article two, chapter sixty of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 4,

2015, relating to the Alcohol Beverage Control Commission (distilleries and mini-distilleries, 175 CSR 10), is authorized.

§64-7-2. Racing Commission.

(a) The legislative rule filed in the State Register on July 22, 2015, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, relating to the Racing Commission (thoroughbred racing, 178 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 22, 2015, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, relating to the Racing Commission (pari-mutuel wagering, 178 CSR 5), is authorized.

§64-7-3. Department of Tax and Revenue.

(a) The legislative rule filed in the State Register on July 29, 2015, authorized under the authority of section five-t, article ten, chapter eleven of this code, modified by the Department of Tax and Revenue to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 18, 2015, relating to the Department of Tax and Revenue (payment of taxes by electronic funds transfer, 110 CSR 10F), is authorized.

(b) The legislative rule filed in the State Register on July 29, 2015, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Department of Tax and Revenue (exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Commerce and the Commissioners of the Public Service Commission, 110 CSR 50H), is authorized, with the amendment set forth below:

On page one, subsection 3.1, line six, following the word ‘Commerce’, by inserting the words ‘Secretary of State’.

(c) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (listing of interests in natural resources for purposes of first statewide appraisal, 110 CSR 1B), is repealed.

(d) The legislative rule effective on May 13, 1987, authorized under the authority of section twenty-nine-a, article one-a, chapter eleven of this code, relating to the Tax Division (guidelines for assessors to assure fair and uniform nonutility personal property values, 110 CSR 1C), is repealed.

(e) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1D), is repealed.

(f) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review of appraisals by the county commission sitting as an administrative appraisal review board, 110 CSR 1E), is repealed.

(g) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (additional review and implementation of property appraisals, 110 CSR 1F), is repealed.

(h) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1G), is repealed.

(i) The legislative rule effective on June 29, 1964, authorized under the authority of article one, chapter eleven of this code, relating to the Tax Division (revision of levy estimates, 110 CSR 8), is repealed.

(j) The legislative rule effective on September 16, 1966, authorized under the authority of article ten, chapter eleven of this code, relating to the Tax Division (inheritance and transfer tax, 110 CSR 11), is repealed.

(k) The legislative rule effective on January 1, 1974, authorized under the authority of section five-a, article ten, chapter eleven of this code, relating to the Tax Division (annual tax on incomes of certain carriers, 110 CSR 12A), is repealed.

(l) The legislative rule effective on April 4, 1988, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (telecommunications tax, 110 CSR 13B), is repealed.

(m) The legislative rule effective on May 1, 1996, authorized under the authority of section three, article thirteen-i, chapter eleven of this code, relating to the Tax Division (tax credit for employing former members of Colin Anderson Center, 110 CSR 13I), is repealed.

(n) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-m, chapter eleven of this code, relating to the Tax Division (tax credits for new value-added, wood manufacturing facilities, 110 CSR 13M), is repealed.

(o) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-n, chapter eleven of this code, relating to the Tax Division (tax credits for new steel, aluminum and polymer manufacturing operations, 110 CSR 13N), is repealed.

(p) The legislative rule effective on May 1, 1995, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit, 110 CSR 13C), is repealed.

(q) The legislative rule effective on April 4, 1988, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes, 110 CSR 1), is repealed.

§64-7-4. Banking Commissioner.

(a) The legislative rule effective on April 23, 1982, authorized under the authority of section four, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Consumer Credit and Protection Act, 106 CSR 8), is repealed.

(b) The procedural rule effective on January 10, 1975, authorized under the authority of section two, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Board of Banking and Financial Institutions, 107 CSR 5), is repealed.

§64-7-5. Office of the Insurance Commissioner.

(a) The legislative rule effective on May 16, 1997, authorized under the authority of section four, article twenty-five-a, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (utilization management, 114 CSR 51), is repealed.

(b) The legislative rule effective on December 28, 1981, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (Medicare supplement insurance coverage, 114 CSR 17), is repealed.”

Delegate Sobonya moved to amend the amendment on page three, by inserting the following;

“(i) The Legislature directs the State Tax Department to promulgate, effective on and after the first day of July, 2016, the amended legislative rule filed in the State Register on July 29, 2015, authorized under the authority of sections five and eleven-b, article

one-c, chapter eleven of this code, as modified to conform to the recommendations of the Legislative Rule-Making Committee on November 18, 2015, but later withdrawn by the State Tax Department by notice filed in the State Register, relating to the State Tax Department (valuation of timberland and managed timberland, 110 CSR 1H), with the following amendments:”

On page four, in subsection 3.16 of the rule, by striking the second sentence, and adding at the end of the final sentence after the word “Index”, before the period, the words “(IMI) as shown on Appendix 4 of this rule.”;

On page six, in section ten of the rule, at the end of the first sentence, following the word “properties” and before the period, by inserting the following words and punctuation marks “, using, for all measures required by this rule to compute such appraised value per acre of managed timberland, real values and not nominal values.”;

On page six, in section ten of the rule, by striking the remaining language of the section, and by inserting “Except as required by the provisions of subsection 2.2 of this rule, in no case shall the appraised value per acre for any grade of managed timberland in any county be less than eighty percent of the value per acre of the comparable grade of managed timberland in the immediately preceding tax year in that same county. The appraised value is the net present worth of all revenues and costs associated with growing timber on the land in perpetuity. Net income is the difference between projected revenues, for example, harvest revenues in years 35, 55 and 80, and projected costs, including, for example, management costs.”;

On page six, in section eleven of the rule, in subsection 11.1, in the first sentence between the words “ownership” and “maps” by adding the words “data provided by the county assessors, or, in the absence of such data, shall digitize from”, and at the end of the subsection, inserting “During any period for which the application of this process to a given parcel is temporarily delayed, the Tax Commissioner, in

cooperation with the Division of Forestry, shall employ such available data and methods as will reasonably approximate the assignment of a soil productivity grade to that parcel.”;

On page six, in section eleven of the rule, in subsection 11.3, following the word “be” by striking the words “determined by the accumulated periodic harvest income plus accrued interest on the net income”, inserting the words “compounded at the end of the rotation (i.e. harvest income value at year 80)”, inserting between the words “less” and “state” the word “applicable” and inserting between the word “payments” and the period, the words “if any”;

On page seven, in section eleven of the rule, in subsection 11.4, following the word “by” striking the word “the”, inserting the words “compounding the annual management costs at the end of the rotation (i.e. management cost value in year 80)”, striking the word “accumulated”, inserting the words “using the”, by inserting a comma before the word “management” and by inserting the letter “s” at the end of the word “cost.”;

On page seven, in section eleven of the rule, in subsection 11.5, between the words “the” and “end” inserting the word “cumulative”, following the word “costs” inserting the words “from the cumulative end of rotation total harvest income per acre as defined in subsection 3.7 of this rule”, and between the word “difference” and the semi-colon, inserting a comma and the words “, assuming an infinite periodic income from the managed timberland”;

On page thirteen, in Appendix 4 of the rule, by striking the words “Site Index (75 or more)” and replacing them with the letters, symbol and digits “IMI = 45”, by striking the words “Site Index (65-74)” and replacing them with the letters, word, symbols and digits “IMI = 30 and = 44.99” and by striking the words “Site Index (less than 65)” and by replacing them with the letters, symbol and digits “IMI = 29.99”;

On page fourteen, in Appendix 5 of the rule, after the words “For Class II Parcels:”, on line 1, following the word “Acre”, by deleting all

the language preceding the words “For Class III & IV Parcels”, and by inserting the words, symbols and digits: “ ((Future Value of Harvest Revenues – Future Value of Management Costs)/((1 + Real Discount Rate)ⁿ - 1)) less discounted property tax Class II rate.

Where:

$n = 80$ years

Future Value of Harvest Revenues – value of harvest revenues in year 80 using compounding formula below

$$V_n = V_o(1 + i)^n$$

Where: V_o = harvest revenue in the initial year (i.e. 35, 45, 55 or 80)

i = capitalization rate

n = rotation length

V_n = future value of harvest revenues

Future Value of Management Costs – value of management costs in year 80 using the formula for calculating the future value of a terminating annual series as given below:

$$V_n = a$$

Where: a = annual management costs

i = capitalization rate

n = rotation length

V_n = future value of management costs”;

And,

On page fourteen, in Appendix 5 of the rule, on the final line, by striking the Roman numeral “II” and replacing it with the Roman numeral “III” and by striking the Roman numeral “III” and replacing it with the Roman numeral “IV”.

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 477**), and there were--yeas 84, nays 16, absent and not voting none, with the nays being as follows:

Nays: Bates, Blackwell, Byrd, Caputo, Eldridge, Fleischauer, Fluharty, Guthrie, Longstreth, Lynch, Manchin, Moore, Perdue, Pushkin, Rowe and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the amendment to the amendment was adopted.

On motion of Delegate Ambler, the Judiciary Committee amendment was amended on page five, following section five, by inserting a new section, to read as follows:

§64-7-6. Lottery Commission.

The Legislature directs the Lottery Commission to promulgate the legislative rule filed in the State Register on May 20, 2009, authorized under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of this code, relating to the Lottery Commission (limited video lottery, 179 CSR 5), with the amendment set forth below:

On page 3, after subsection 2.11, by adding a new subsection 12.2 to read as follows:

2.12. “Licensed limited video lottery location approved by the commission” as it appears in W. Va. Code, §29-22B-1201(a) means the

location in excess of the following straight-line distances from any of the following places:

2.12.a. The location is at two hundred feet from a business that sells petroleum products capable of being used as fuel in an internal combustion engine.”

And,

By renumbering the remaining subsections.

The Judiciary amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 159, Authorizing promulgation of legislative rules by miscellaneous boards and commissions; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That article 9, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS
AGENCIES AND BOARDS TO
PROMULGATE LEGISLATIVE RULES.**

§64-9-1. Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, 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 October 20,

2015, relating to the Board of Examiners in Counseling (licensing, 27 CSR 1), is authorized with the following amendment:

On page three, subdivision 5.2.a after the words “applicant for endorsement” by striking out the words “in section 5.2 of this rule”.

(b) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, 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 September 29, 2015, relating to the Board of Examiners in Counseling (licensed professional counselor license renewal and continuing professional education requirements, 27 CSR 3), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, 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 October 20, 2015, relating to the Board of Examiners in Counseling (marriage and family therapists licensing, 27 CSR 8), is authorized with the following amendments:

On page three, subdivision 5.1 immediately following the words “shall be” by striking out the words “greater than or equal “ and inserting in lieu thereof the words “substantially equivalent”;

On page three, subsection 5.2, after the words “license to practice”, by striking out the words “mental health counselor” and inserting in lieu thereof the words “marriage and family therapy”;

On page three, subdivision 5.2.a after the words “applicant for endorsement” by striking out the words “in section 5.2 of this rule”;

On page four, subdivision 5.2.a.4, after the words “licensed as” by inserting the words “marriage and family therapists”;

On page four, subsection 5.3 after the words “actively practiced” by striking out the words “mental health counseling as licensed professional counselor” and inserting in lieu thereof the words “marriage and family therapy as a licensed marriage and family therapist”;

On page four, paragraph 5.3.a.1, after the words “passed the” by striking out the words “national counselor examination (NCE) or the national clinical mental health counseling examination (NCMHCE) or other certification examination in counseling approved by the board” and inserting in lieu thereof the words “Examination in Marital and Family Therapy or other certification examination in marriage and family therapy approved by the board”; and

On page four, paragraph 5.3.a.2 after the words “license to practice” by striking out the words “mental health counselor” and inserting in lieu thereof the following: “marriage and family therapy”.

(d) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, 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 September 29, 2015, relating to the Board of Examiners in Counseling (marriage and family license renewal and continuing professional education requirements, 27 CSR 10), is authorized.

§64-9-2. Board of Accountancy.

The legislative rule filed in the State Register on Friday, July 24, 2015, authorized under the authority of section five, article nine, chapter thirty of this code, modified by the Board of Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on Thursday, November 5, 2015, relating to the Board of Accountancy (board rules and rules of professional conduct, 1 CSR 1), is authorized.

§64-9-3. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section four, article twenty-nine, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 3, 2015, relating to the Department of Agriculture (inspection of nontraditional domesticated animals, 61 CSR 23D), is authorized.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section two, article nine, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Department of Agriculture (poultry litter and manure movement into primary poultry breeder rearing areas, 61 CSR 28), is authorized.

(c) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four, article one-c, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Department of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section twelve, article two-h, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Department of Agriculture (captive cervid farming, 61 CSR 34), is authorized with the following amendment:

On page nine, subdivision 13.1.a., by striking the words “two hundred (200) acres” and inserting in lieu thereof the words “one hundred fifty (150) acres”.

(e) The legislative rule effective on November 14, 1967, authorized under the authority of article two, chapter nineteen of this code, relating to the Department of Agriculture (tobacco, 61 CSR 11A), is repealed.

(f) The legislative rule effective on May 31, 1985, authorized under the authority of section four, article one, chapter nineteen of this code, relating to the Department of Agriculture (conduct of beef industry self-improvement assessment program referendums, 61 CSR 11C), is repealed.

(g) The legislative rule effective on May 31, 1985, authorized under the authority of section four-j, article one, chapter nineteen of this code, relating to the Department of Agriculture (conduct of beef self-improvement assessment program referendums, 61 CSR 11G), is repealed.

(h) The legislative rule effective on August 21, 1959, authorized under the authority of article two, chapter nineteen of this code, relating to the Department of Agriculture (West Virginia seal of quality, 61 CSR 15), is repealed.

(i) The legislative rule effective on May 1, 1995, authorized under the authority of section one, article twenty-nine, chapter nineteen of this code, relating to the Department of Agriculture (aquaculture farm rules, 61 CSR 23), is repealed.

(j) The procedural rule effective on September 23, 1989, authorized under the authority of section one, article twenty-six, chapter nineteen of this code, relating to the Department of Agriculture (conduct of tree fruit industries self-improvement assessment program referendums, 61 CSR 20), is repealed.

§64-9-4. State Conservation Committee.

The legislative rule filed in the State Register on June 3, 2015, authorized under the authority of section four-a, article twenty-one-a,

chapter nineteen of this code, modified by the State Conservation Committee to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 16, 2015, relating to the State Conservation Committee (West Virginia Conservation Agency Financial Assistance Program, 63 CSR 2), is authorized.

§64-9-5. Board of Dentistry.

(a) The legislative rule filed in the State Register on July 23, 2015, 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 23, 2015, relating to the Board of Dentistry (continuing education requirements, 5 CSR 11), is authorized.

(b) The legislative rule filed in the State Register on July 23, 2015, 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 23, 2015, relating to the Board of Dentistry (expanded duties of dental hygienists and dental assistants, 5 CSR 13), is authorized.

§64-9-6. State Election Commission.

(a) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section five, article one-a, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 22, 2015, relating to the State Election Commission (regulation of campaign finance, 146 CSR 3), is authorized with the amendments set forth below:

On page 11, by striking all of subdivision 6.3.e;

On page 11, subsection 6.7, after the word “ballot”, by striking the remainder of subsection 6.7;

On page 12, subdivision 7.2.b, by striking the words “by making a contribution to one or more political party committees or candidates”;

On page 18, by striking all of subdivision 10.7.a;

And,

On page 18 by striking all of subdivision 10.7.b.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section fourteen, article twelve, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on December 22, 2015, relating to the State Election Commission (West Virginia Supreme Court of Appeals Public Campaign Financing Program, 146 CSR 5), is authorized.

§64-9-7. State Board of Registration for Professional Engineers.

The legislative rule filed in the State Register on May 11, 2015, authorized under the authority of section nine, article thirteen, chapter thirty of this code, modified by the State Board of Registration for Professional Engineers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2015, relating to the State Board of Registration for Professional Engineers (examination, licensure and practice of professional engineers, 7 CSR 1), is authorized.

§64-9-8. Governor’s Committee on Crime, Delinquency and Correction.

The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section three, article twenty-nine, chapter thirty of this code, modified by the Governor’s Committee on

Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Governor's Committee on Crime, Delinquency and Correction (law-enforcement training and certification standards, 149 CSR 2), is authorized.

§64-9-9. Medical Imaging and Radiation Therapy Technology Board of Examiners.

The legislative rule filed in the State Register on June 8, 2015, authorized under the authority of section six, article twenty-three, chapter thirty of this code, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (rules of the Board, 18 CSR 1), is authorized.

§64-9-10. Board of Medicine.

The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section eleven-b, 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 October 23, 2015, relating to the Board of Medicine (establishment and regulation of limited license to practice medicine and surgery at certain state veterans' nursing home facilities, 11 CSR 11), is authorized.

§64-9-11. Nursing Home Administrators Licensing Board.

The legislative rule filed in the State Register on July 17, 2017, authorized under the authority of section six, article twenty-five, chapter thirty of this code, modified by the Nursing Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 2, 2015, relating to the Nursing Home Administrators Licensing Board (nursing home administrators, 21 CSR 1), is authorized

§64-9-12. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 16, 2015, 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 17, 2015, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 16, 2015, authorized under the authority of section three hundred one, article three, 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 17, 2015, relating to the Board of Pharmacy (Uniform Controlled Substances Act, 15 CSR 2), is authorized.

(c) The legislative rule filed in the State Register on July 16, 2015, 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 17, 2015, relating to the Board of Pharmacy (record keeping and automated data processing systems, 15 CSR 4), is authorized.

(d) The legislative rule filed in the State Register on July 16, 2015, 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 17, 2015, relating to the Board of Pharmacy (licensure of wholesale drug distributors, third-party logistics providers and manufacturers, 15 CSR 5), is authorized.

§64-9-13. Property Valuation and Procedures Commission.

The legislative rule filed in the State Register on July 29, 2015, authorized under the authority of section five, article ten, chapter eleven, and section four-d, article one-c, chapter eleven of this code, modified by the Property Valuation and Procedures Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 27, 2015, relating to the Property Valuation and Procedures Commission (tax map sales, 189 CSR 5), is authorized.

§64-9-14. Board of Social Work.

The legislative rule filed in the State Register on July 21, 2015, authorized under the authority of section six, article thirty, chapter thirty of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the Board of Social Work (qualifications for the profession of social work, 25 CSR 1), is authorized.

§64-9-15. Secretary of State.

(a) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section six, article one-a, chapter three of this code, relating to the Secretary of State (registration forms and receipts, 153 CSR 3), is authorized.

(b) The legislative rule filed in the State Register on July 1, 2015, authorized under the authority of section twenty-one, article two, chapter three of this code, relating to the Secretary of State (elimination of precinct registration books, 153 CSR 9), is authorized.

(c) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section six, article one-a, chapter three of this code, relating to the Secretary of State (absentee voting by

military voters who are members of reserve units called to active duty, 153 CSR 23), is authorized.

(d) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section three-a, article one, chapter twenty-nine-b 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 December 22, 2015, relating to the Secretary of State (Freedom of Information Act database, 153 CSR 52), is authorized.

(e) The legislative rule effective on April 3, 1998, authorized under the authority of section sixty-seven, article one, chapter thirty-one of this code, relating to the Secretary of State (matters relating to corporations and other business entity filing, 153 CSR 5), is repealed.

(f) The legislative rule effective on June 7, 1996, authorized under the authority of section six, article one-a, chapter three of this code, relating to the Secretary of State (matters relating to official election forms and vendor authorization, 153 CSR 26), is repealed.

§64-9-16. Board of Examiners for Speech-Language Pathology and Audiology.

(a) The legislative rule filed in the State Register on June 8, 2015, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Examiners for Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the Board of Examiners for Speech-Language Pathology and Audiology (licensure of speech pathology and audiology, 29 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on June 8, 2015, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Examiners for

Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the Board of Examiners for Speech-Language Pathology and Audiology (speech-language pathology and audiology assistants, 29 CSR 2), is authorized with the following amendments:

On page 4, Subdivision 4.1.(y), following the word “than”, by striking the word “two” and inserting in lieu thereof the word “three”;

On page 4, section 5, paragraph (8), after the word “pathologists,” by striking out the words “or audiologists,” and in paragraph (11), after the word “pathology,” by striking out the words “or Audiology.”;

And

On page 5, section (6), subsection (c), after the word “pathologist” by striking out the words “or audiologist,” and in subsection (j), after the word “pathologist,” by striking out the words “or audiology,” and in subsection (m), after the word “pathologist,” by striking out the words “or audiologist.”

§64-9-17. Enterprise Resource Planning Board.

The legislative rule contained in title two hundred thirteen, series one, of the code of state rules, filed and effective April 14, 2015, under the authority of section two, article six-d, chapter twelve of this code, relating to the enterprise resource planning system user fee, 213 CSR 1, is reauthorized, with the amendment set forth below:

On page two, subsection 3.2, line 4, following the words “of the ERP system” and the period, by adding the following: “The amount of the user fee assessed and imposed upon a spending unit of the state shall not exceed \$200 per FTE per year. The total amount of user fees that may be assessed in any fiscal year shall not exceed \$8,312,200. The authority of the Board to assess a user fee expires on and after January 1, 2018.”

§64-9-18. Cable TV Advisory Board.

(a) The legislative rule effective on April 15, 1991, authorized under the authority of section six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (franchising procedures, 187 CSR 1), is repealed.

(b) The legislative rule effective on June 1, 1997, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (implementing regulations, 187 CSR 2), is repealed.

(c) The legislative rule effective on June 30, 1997, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (calculation and collection of late fee, 187 CSR 6), is repealed.

(d) The procedural rule effective on October 7, 1991, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (administrative procedures for consumer complaint resolution under the West Virginia Cable TV Systems Act, 187 CSR 3), is repealed.

(e) The procedural rule effective on August 28, 1993, authorized under the authority of section sixteen, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (rate regulation procedures, 187 CSR 4), is repealed.

(f) The procedural rule effective on March 5, 1994, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (form and service of notice under section eight, article eighteen-a, chapter five of this code, 187 CSR 5), is repealed.

§64-9-19. Contractor Licensing Board.

The legislative rule effective on November 1, 2002, authorized under the authority of section fourteen, article eleven, chapter

twenty-one of this code, relating to the Contractor Licensing Board (consumer complaints, 28 CSR 3), is repealed.

§64-9-20. Respiratory Care Board.

The legislative rule effective on June 24, 1997, authorized under the authority of section six, article thirty-four, chapter thirty of this code, relating to the Respiratory Care Board (procedure for licensure applications, 30 CSR 1), is repealed.

§64-9-21. Attorney General.

The procedural rule effective on December 21, 1988, authorized under the authority of section three, article one, chapter twenty-nine-b of this code, relating to the Attorney General (freedom of information, 142 CSR 2), is repealed.

§64-9-22. Municipal Bond Commission.

The procedural rule effective on March 12, 1984, authorized under the authority of section six, article three, chapter thirteen of this code, relating to the Municipal Bond Commission (rules of procedure covering board and executive committee meetings of the Municipal Bond Commission, 109 CSR 1), is repealed.

§64-9-23. Housing Development Fund.

The legislative rule effective on August 15, 1982, authorized under the authority of section one, article eighteen-b, chapter thirty-one of this code, relating to the Housing Development Fund (refiling of administrative rules pertaining to administration of single-family mortgage loans, 88 CSR 1) is repealed.

§64-9-24. Public Service Commission.

(a) The legislative exempt rule effective on December 12, 1987, authorized under the authority of section one, article one, chapter twenty-four of this code, relating to the Public Service Commission

(rules and regulations for carrier access to the lines and facilities of other carriers, 150 CSR 18), is repealed.

(b) The legislative exempt rule effective on December 12, 1987, authorized under the authority of section one, article one, chapter twenty-four of this code, relating to the Public Service Commission (rules and regulations for shipper access to the lines and facilities of rail carriers, 150 CSR 19), is repealed.

§64-9-25. Infrastructure and Jobs Development Council.

The procedural rule effective on November 12, 1999, authorized under the authority of section three, article nine-a, chapter six of this code, relating to the Infrastructure and Jobs Development Council (establishing procedures to provide public notice of date, time, place, agenda and purpose of meetings of the West Virginia Infrastructure and Jobs Development Council and manner in which meetings are to be conducted, 167 CSR 2), is repealed.

§64-9-26. Water Development Authority.

The procedural rule effective on November 4, 1999, authorized under the authority of section three, article nine-a, chapter six of this code, relating to the Water Development Authority (new procedures in relation to providing public notice of date, time, place and purpose of meetings of the West Virginia Water Development Authority and manner in which meetings are to be conducted, 44 CSR 3), is repealed.

On motion of Delegate Ellington, the amendment was amended on page seven, section ten, by striking out section ten in its entirety and inserting the lieu thereof a new section ten, to read as follows:

“§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section eleven-b, 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 October 23, 2015, relating to the Board of Medicine (establishment and regulation of limited license to practice medicine and surgery at certain state veterans' nursing home facilities, 11 CSR 11), is authorized.

(b) The Legislature directs the West Virginia Board of Medicine to promulgate the legislative rule filed in the State Register on April 6, 2007, authorized under the authority of section seven, article three, chapter thirty of this code relating to the Board of Medicine (licensing and disciplinary procedures. Physicians; Podiatrists, 11 CSR 1A), is authorized with the following amendments:

‘On Subsection 12.1, subdivision ee, paragraph A, after the word, “narcolepsy” and inserting the words, “binge eating disorder”;

And,

On page 14, after Section 26, by inserting a new section 27 to read as follows:

§64-9-27. Board of Osteopathic Medicine.

The Legislature directs the West Virginia Board of Osteopathic Medicine to promulgate the legislative rule filed in the State Register on May 8, 2013, authorized under the authority of section four, article one, chapter thirty and section six-b, article one, chapter 30 of this code relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 1), is authorized with the following amendments:

On Subsection 18.1, subdivision dd, paragraph 1, after the word, “narcolepsy” and inserting the words, “binge eating disorder”.’

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. ORGANIZATION, INSTITUTIONS AND
CORRECTIONS MANAGEMENT.**

**§25-1-17. Monitoring of inmate telephone calls; procedures and
restrictions; calls to or from attorneys excepted.**

(a) The Commissioner of Corrections or his or her designee is authorized to monitor, intercept, record and disclose telephone calls to or from adult inmates of state correctional institutions in accordance with the following provisions:

(1) All adult inmates of state correctional institutions shall be notified in writing that their telephone conversations may be monitored, intercepted, recorded and disclosed;

(2) Only the commissioner, warden, administrator or their designee shall have access to recordings of inmates' telephone calls unless disclosed pursuant to subdivision (4) of this subsection;

(3) Notice shall be prominently placed on or immediately near every telephone that may be monitored;

(4) The contents of inmates' telephone calls may be disclosed to an appropriate law-enforcement agency ~~pursuant to an order of a court or~~

~~administrative tribunal~~ when disclosure is necessary for the investigation, prevention or prosecution of a crime or to safeguard the orderly operation of the correctional institution. Disclosure may be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the correctional institution; or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All recordings of telephone calls shall be retained for at least three years and maintained and destroyed in accordance with the record retention policy of the Division of Corrections adopted pursuant to section one, article eight, chapter five-a of this code, *et. seq.*; or

(6) To safeguard the sanctity of the attorney-client privilege, a telephone line that is not monitored shall be made available for telephone calls to or from an attorney. These calls shall not be monitored, intercepted, recorded or disclosed in any matter.

~~(b) The commissioner shall propose legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of this section. The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of (1) a copy of the contents of any inmate telephone conversation provided to law enforcement and (2) the name of the law-enforcement officer and the law-enforcement agency to which the contents of the telephone conversation were provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in subdivision (5) of subsection (a) of this section. The inmate's telephone conversation and the information regarding law enforcement are law-enforcement records under subdivision (4), subsection (a), section four, article one, chapter twenty-nine-b of this code.~~

(c) Should an inmate be charged with a crime based in whole or part on the inmate's telephone conversation supplied to law enforcement, the inmate's attorney in said criminal matter shall be entitled to access to and copies of the inmate's telephone conversations in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

~~(c)~~(d) The provisions of this section shall apply only to those persons serving a sentence of incarceration in the physical custody of the Commissioner of Corrections.

§25-1-18. Monitoring inmate mail; procedures and restrictions; identifying mail from a state correctional institution; mail to or from attorneys excepted.

(a) The Commissioner of Corrections or his or her designee is authorized to monitor, open, review, copy and disclose mail sent to adult inmates of state correctional institutions in accordance with the following provisions:

(1) All adult inmates of state correctional institutions shall be notified in writing that their mail may be monitored, opened, reviewed, copied and disclosed;

(2) Only the commissioner and his or her designee shall have access to copies of inmates' mail unless disclosed pursuant to subdivision (4) of this subsection;

(3) Notice that the mail may be monitored shall be prominently placed on or immediately near every mail receptacle or other designated area for the collection or delivery of mail;

(4) The contents of inmates' mail may be disclosed to an appropriate law-enforcement agency ~~pursuant to an order of a court or administrative tribunal~~ when disclosure is necessary for the investigation, prevention or prosecution of a crime or to safeguard the

orderly operation of the correctional institution. Disclosure may be made in civil or administrative proceedings pursuant to an order of a court or administrative tribunal when the disclosure is: (A) Necessary to safeguard and protect the orderly operation of the correctional institution; or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All copies of mail shall be retained for at least three years and maintained and destroyed in accordance with the records retention policy of the Division of Corrections adopted pursuant to section one, article eight, chapter five-a of this code, *et. seq.*; or

(6) The inmate whose mail has been copied and disclosed under this section shall be given a copy of all such mail when it is determined by the commissioner, warden or administrator not to jeopardize the safe and secure operation of the facility or to be detrimental to an ongoing investigation or administrative action.

(b) To safeguard the sanctity of the attorney-client privilege, mail to or from an inmate's attorney shall not be monitored, reviewed, copied or disclosed in any manner unless required by an order of a court of competent jurisdiction. However, such mail may be checked for weapons, drugs and other contraband provided it is done in the presence of the inmate and there is a reasonable basis to believe that any weapon, drug or other contraband exists in the mail.

(c) All inmates' outgoing mail must be clearly identified as being sent from an inmate at a state correctional institution and must include on the face of the envelope the name and full address of the institution.

(d) The Commissioner of Corrections or his or her designee is authorized to open, monitor, review, copy and disclose an inmate's outgoing mail in accordance with the provisions of subsection (a) of this section.

(e) The commissioner shall propose legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of this section. The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of (1) all inmate mail provided to law enforcement and (2) the name of the law-enforcement officer and the law-enforcement agency to which the inmate mail was provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in subdivision (5) of subsection (a) of this section. The inmate mail and the information regarding law enforcement are law-enforcement records under subdivision (4), subsection (a), section four, article one, chapter twenty-nine-b of this code.

(f) Should an inmate be charged with a criminal offense based in whole or in part on the inmate's mail supplied to law enforcement, the inmate's attorney in said criminal matter shall be entitled to access to and copies of the inmate's mail in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(g) The provisions of this section shall apply only to those persons serving a sentence of incarceration in the physical custody of the Commissioner of Corrections.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 267, Modifying removal procedure for certain county, school district and municipal officers; on second reading, coming up in regular order, was read a second time and ordered to third reading.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §6-6-1 and §6-6-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. REMOVAL OF OFFICERS

§6-6-1. Definitions.

~~The term ‘neglect of duty,’ or the term ‘official misconduct,’ as used in this article, shall include the willful waste of public funds by any officer or officers, or the appointment by him or them of an incompetent or disqualified person to any office or position and the retention of such person in office, or in the position to which he was appointed, after such incompetency or disqualification is made to appear, when it is in the power of such officer to remove such incompetent or disqualified person. The term ‘incompetence,’ as used in this article, shall include the wasting or misappropriation of public funds by any officer, habitual drunkenness, habitual addiction to the use of narcotic drugs, adultery, neglect of duty, or gross immorality, on the part of any officer. The term ‘incompetent person,’ as used in this section, shall include any appointee or employee of any officer or officers, including county court, municipal bodies or officers, and boards of education, who willfully wastes or misappropriates public funds, or who is guilty of habitual drunkenness, habitual addiction to the use of narcotic drugs, adultery, neglect of duty or gross immorality.~~

(a) The term ‘official misconduct’, as used in this article, means conviction of a felony during the officer’s present term of office or any willful unlawful behavior by a public officer in the course of his or her performance of the duties of the public office which are committed during the officer’s present term of office.

(b) The term ‘neglect of duty’, as used in this article, means the knowing refusal or willful failure of a public officer to perform an essential act or duty of the office required by law and occurring during the officer’s present term of office.

(c) The term ‘incompetence’, as used in this article, may include the following acts or adjudications committed or arising during the challenged officer’s present term of office: The waste or misappropriation of public funds by any officer when the officer knew, or should have known, that such use of funds was inappropriate or inconsistent with the lawful duties of the office; conviction of a misdemeanor involving dishonesty or gross immorality, having been the subject of a determination of incapacity, as defined and governed by section seven, article thirty, chapter sixteen of this code; or other conduct affecting the officer’s ability to perform the essential official duties of his or her office including but not limited to habitual drunkenness or addiction to the use of narcotic drugs.

(d) The term ‘qualified petitioner’, as used in this article, means a person who was registered to vote in the election in which the officer was chosen which next preceded the filing of the petition.

§6-6-7. Procedure for removal of county, school district and municipal officers having fixed terms; appeal; grounds; cost.

(a) Any person holding any county, school district or municipal office, including the office of a member of a board of education and the office of magistrate, the term or tenure of which office is fixed by law, whether the office be elective or appointive, except judges of the circuit courts, may be removed from such office in the manner provided in this section for official misconduct, ~~malfeasance in office, neglect of duty,~~ incompetence, ~~neglect of duty or gross immorality~~ or for any of the causes or on any of the grounds provided by any other statute.

(b) Charges may be ~~preferred~~ proffered:

~~(1) In the case of any county officer, member of a district board of education or magistrate, by the county commission, or other tribunal in lieu thereof, any other officer of the county, or by any number of persons other than such county officers, which number shall be the~~

lesser of fifty or one percent of the total number of voters of the county participating in the general election next preceding the filing of such charges.

~~(2) In the case of any municipal officer, by the prosecuting attorney of the county wherein such municipality, or the greater portion thereof, is located, any other elected officer of the municipality, or by any number of persons other than the prosecuting attorney or other municipal elective officer of the municipality who are residents of the municipality, which number shall be the lesser of twenty-five or one percent of the total number of voters of the municipality participating in the election at which the governing body was chosen which election next preceded the filing of the petition:~~

(1) In the case of any county officer, member of a board of education or magistrate:

(A) By a duly enacted resolution of the county commission which sets forth therein the name and office of the challenged officer, the alleged wrongful acts, the dates the alleged acts occurred and the grounds for removal as provided in this article;

(B) By the prosecuting attorney of the county; or

(C) By petition of a number of qualified petitioners, which number shall be:

(i) In a county with a population in excess of fifty thousand; the lesser of two thousand or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition;

(ii) In a county with a population in excess of ten thousand but not in excess of fifty thousand, the lesser of five hundred or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition; and

(iii) In a county with a population not in excess of ten thousand, the lesser of one hundred or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition.

Such petition shall set forth therein the name and office of the challenged officer, the alleged wrongful acts and the grounds for removal.

(2) In the case of any municipal officer:

(A) By a duly enacted resolution of the governing body of the municipality which sets forth therein the name and office of the challenged officer, the alleged wrongful acts, the dates the alleged acts occurred and the grounds for removal as provided in this article;

(B) By the prosecuting attorney of the county wherein such municipality, or the greater portion thereof, is located; or

(C) By petition of a number of qualified petitioners, which number shall be:

(i) In a class I city, the lesser of two thousand or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition;

(ii) In a class II city, the lesser of five hundred or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition;

(iii) In a class III city, the lesser of one hundred or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition; and

(iv) In a class IV town or village, the lesser of fifty or ten percent of the number of registered voters who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition.

Such petition shall set forth therein the name and office of the challenged officer, the alleged wrongful acts and the grounds for removal.

(3) By the chief inspector and supervisor of public offices of the state where the person sought to be removed is entrusted by law with the collection, custody and expenditure of public moneys because of any intentional or unlawful misapplication, misappropriation or embezzlement of such moneys.

~~(c) The charges shall be reduced to writing in the form of a petition duly verified by at least one of the persons bringing the same, and shall be entered of record by the court, or the judge thereof in vacation, and a summons shall thereupon be issued by the clerk of such court, together with a copy of the petition, requiring the officer or person named therein to appear before the court, at the courthouse of the county where such officer resides, and answer the charges on a day to be named therein, which summons shall be served at least twenty days before the return day thereof in the manner by which a summons commencing a civil suit may be served.~~

~~The court, or judge thereof in vacation, or in the case of any multijudge circuit, the chief judge thereof, shall, without delay forward a copy of the petition to the Supreme Court of Appeals and shall ask for the impaneling or convening of a three-judge court consisting of three circuit judges of the state. The chief justice of the Supreme Court of Appeals shall without delay designate and appoint three circuit judges within the state, not more than one of whom shall be from the same circuit in which the petition is filed and, in the order of such appointment, shall designate the date, time and place for the convening of such three-judge court, which date and time shall not be less than twenty days from the date of the filing of the petition.~~

~~Such three-judge court shall, without a jury, hear the charges and all evidence offered in support thereof or in opposition thereto and upon satisfactory proof of the charges shall remove any such officer or person from office and place the records, papers and property of his or her office in the possession of some other officer or person for safekeeping or in the possession of the person appointed as hereinafter provided to fill the office temporarily. Any final order either removing or refusing to remove any such person from office shall contain such findings of fact and conclusions of law as the three-judge court shall deem sufficient to support its decision of all issues presented to it in the matter.~~

(c) When removal is proffered by a duly enacted resolution of a county commission or municipal governing body, a certified copy of the resolution shall be served by the clerk of the commission or municipal governing body upon the circuit court in whose jurisdiction the officer serves within five business days of adoption of the resolution. The proffering county commission or municipal governing body shall be responsible for the prosecution of the removal resolution.

(d) When removal is proffered by the prosecuting attorney, the charges shall be reduced to writing and the charges shall be served upon the circuit court in whose jurisdiction the officer serves, and the prosecuting attorney shall be responsible for the prosecution of the removal action.

(e) When removal is proffered by petition, the charges shall be reduced to writing and each page on which signatures are affixed shall include the name and office of the challenged officer, the charges or grounds for removal, which may be achieved by attachment to each signature page, and an informed acknowledgement of an agreement with the charges. At least one of the persons bringing the petition shall serve the original petition upon the circuit court in whose jurisdiction the officer serves, and shall be responsible for the prosecution of the removal action.

(f) Any resolution or petition submitted pursuant to this section shall be received and entered of record by the court, or the judge thereof in vacation, and a summons shall thereupon be issued by the clerk of such court, together with a copy of the resolution or petition, requiring the officer or person named therein, or legal counsel therefor, to appear before the court for a preliminary hearing, at the courthouse of the county where such officer resides, for the purpose of a judicial determination as to the validity of the resolution or petition, the clerk having ascertained whether such signatures are the signatures of eligible residents, and to hear any related objections or motions that may be presented. The summons shall be served in the manner by which a summons commencing a civil suit may be served within five (5) business days of the receipt of the resolution or petition by the court.

(g) The court, or judge thereof in vacation, or in the case of any multi-judge circuit, the chief judge thereof, shall have authority to evaluate any resolution or petition for any procedural defect, and to consider all the allegations made in the resolution or petition in light of the applicable case law and the required strict construction of the grounds asserted, and conclude whether or not the allegations asserted would be sufficient, if proven by clear and convincing evidence, to warrant the removal of the officer from office. In the case of a petition, the court may require that the clerk responsible for the maintenance of voting records for the governing body for whom the officer serves provide an affidavit verifying the number of qualified petitioner signatures and the applicable total number of registered voters.

If the court finds, after consideration of any motions or objections, or in the court's discretion provided for herein, that the resolution or petition is defective or the allegations stated therein do not meet the standards for removal set forth herein, the resolution or petition shall be dismissed by the court. If the court finds that the resolution or petition is sufficient under the standards for removal set forth herein to proceed to a hearing before a three judge court, the court shall forward a copy of the resolution or petition to the Supreme Court of Appeals.

Upon receipt of said resolution or petition, the chief justice of the Supreme Court of Appeals shall, not fewer than twenty days from the date of the receipt of the resolution or petition, designate and appoint three circuit judges within the state, not more than one of whom shall be from the same circuit in which the resolution or petition was filed and, in the order of such appointment, shall require that the three judge court designate the date, time and place for the hearing of the resolution or petition forthwith.

Such three-judge court shall, without a jury, hear the charges, any motions filed by either party and all evidence offered in support thereof or in opposition thereto, and upon satisfactory proof of the charges by clear and convincing evidence, shall remove any such officer from office and place the records, papers and property of his office in the possession of some other officer or person for safekeeping or in the possession of the person appointed as hereinafter provided to fill the office temporarily. Any final order either removing or refusing to remove any such person from office shall contain such findings of fact and conclusions of law as the three-judge court shall deem sufficient to support its decision of all issues presented to it in the matter.

(d)(h) An appeal from an order of such three-judge court removing or refusing to remove any person from office pursuant to this section may be taken to the Supreme Court of Appeals within thirty days from the date of entry of the order from which the appeal is taken. The Supreme Court of Appeals shall consider and decide the appeal upon the original papers and documents, without requiring the same to be printed and shall enforce its findings by proper writ. From the date of any order of the three-judge court removing an officer under this section until the expiration of thirty days thereafter, and, if an appeal be taken, until the date of suspension of such order, if suspended by the three-judge court and if not suspended, until the final adjudication of the matter by the Supreme Court of Appeals, the officer, commission or body having power to fill a vacancy in such office may fill the same by a temporary appointment until a final decision of the matter, and when a final decision is made by the Supreme Court of Appeals shall fill the vacancy in the manner provided by law for such office.

(e)(i) In any case wherein the charges are ~~preferred~~ proffered by the chief inspector and supervisor of public offices against the county commission or any member thereof or any county, school district or municipal officer, the proceedings under this section shall be conducted and prosecuted in the same manner set forth herein for removal by resolution or petition by the prosecuting attorney of the county in which the officer proceeded against resides, and on any appeal from the order of the three-judge court in any such case, the Attorney General of the state shall represent the people. When any municipal officer is proceeded against the solicitor or municipal attorney for such municipality may assist in the prosecution of the charges.

(j) If a judicial proceeding under this section is dismissed or otherwise resolved in favor of the challenged officer who has been found to be acting in good faith, the political subdivision for which the officer serves shall be responsible for the court costs and reasonable attorney fees for the officer.”

Delegates Shaffer and Azinger moved to amend the amendment on page three, section seven, lines twenty-six and twenty-seven, following the words “lessor of”, by striking out the words “two thousand or ten” and inserting in lieu thereof, the words “two hundred fifty or two”;

On page three, section seven, line thirty, following the words “lessor of”, by striking out the words “five hundred or ten” and inserting in lieu thereof, the words “one hundred twenty-five or two”.

On page three, section seven, lines thirty-three and thirty-four, following the words “the lessor of”, by striking out the words “one hundred or ten” and inserting in lieu thereof, the words “fifty or two”.

On page four, section seven, line forty-five, following the word “the lessor of”, by striking out the words “two thousand or ten” and inserting “two hundred fifty or two”.

On page four, section seven, line forty-eight, following the word “the lessor of”, by striking out the words “five hundred or ten” and inserting in lieu thereof, the words “two hundred fifty or two”.

On page four, section seven, line fifty-one, following the words “the lessor of”, by striking out the words “one hundred or ten” and inserting in lieu thereof, the words “fifty or two”.

On page four, section seven, line forty-four, following the words “fifty or”, by striking out the word “ten” and inserting in lieu thereof, the word “two”;

And,

On page seven, section seven, line one hundred twenty, following the word “voters”, by striking out the period and inserting the words “who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition”.

Delegate Shaffer asked unanimous consent to reform the amendment, which consent was not given, objection being heard.

Delegate J. Nelson moved to advance the bill to third reading with the right to amend and subsequently withdrew his motion.

Delegate Shaffer asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegate Ihle, the Judiciary Committee amendment was then amended on page one, subsection (a), lines sixteen and seventeen, by striking out the words “which are committed during the officer’s present term of office”.

On page two, subsection (b), lines nineteen and twenty, by striking out the words “and occurring during the officer’s present term of office”.

And,

On page two, subsection (c), line twenty-two, by striking out the word “present”.

The Clerk then reported a new amendment offered by Delegates Shaffer and Azinger, as follows:

On page three, section seven, lines twenty-six and twenty-seven, following the words “lessor of” by striking out the words “two thousand or ten” and inserting in lieu thereof, the words “two hundred fifty or five”.

On page three, section seven, line thirty, following the words “lessor of” by striking out the words “five hundred or ten” and inserting in lieu thereof, the words “two hundred or five”.

On page three, section seven, lines thirty-three and thirty-four, following the words “the lessor of” by striking out the words “one hundred or ten” and inserting in lieu thereof, the words “one hundred or five”.

On page four, section seven, line forty-five, following the word “the lessor of” by striking out the words “two thousand or ten” and inserting “two hundred fifty or five”.

On page four, section seven, line forty-eight, following the word “the lessor of” by striking out the words “five hundred or ten” and inserting in lieu thereof, the words “two hundred fifty or five”.

On page four, section seven, line fifty-one, following the words “the lessor of” by striking out the words “one hundred or ten” and inserting in lieu thereof, the words “one hundred or five”.

On page four, section seven, line fifty-four, following the words “one hundred or” by striking out the word “ten” and inserting in lieu thereof, the word “five”.

And,

On page seven, section seven, line one hundred twenty, following the word “voters” by striking out the period and inserting the words “who participated in the particular election in which the challenged officer was chosen which next preceded the filing of the petition.”

On the adoption of the amendment, Delegate Shott demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 478**), and there were--yeas 25, nays 75, absent and not voting none, with the yeas being as follows:

Yeas: Azinger, Blackwell, Border, Fast, Folk, Frich, Hill, Hornbuckle, Ihle, Kelly, Kessinger, Kurcaba, Longstreth, Lynch, McGeehan, Miley, Moffatt, Moye, Reynolds, Rohrbach, Shaffer, P. Smith, Sponaugle, Trecost and P. White.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

At the request of Delegate Shott, and by unanimous consent, the bill was advanced to third reading with restricted right to amend by Delegates Shott and Manchin, and the rule was suspended to permit the consideration of the amendment on that reading.

Com. Sub. for S. B. 270, Repealing code relating to insurance policies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 291, Law enforcement use of unmanned aircraft systems; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause,

by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5 and §61-14-6 all to read as follows:

ARTICLE 14. USE OF UNMANNED AIRCRAFT SYSTEMS.

§61-14-1. Definitions.

As used in this article:

(1) ‘Aircraft’ means any contrivance now known or subsequently invented, used or designed for navigation or for flight in the air, including, but not limited to, unmanned aircraft vehicles or systems;

(2) ‘Chief executive officer’ has the same meaning as the definition for ‘chief executive’ in section one, article twenty-nine, chapter thirty of this code;

(3) ‘Commission’ means the West Virginia State Aeronautics Commission;

(4) ‘Director’ means the Director of Aeronautics for the State of West Virginia or his or her designee;

(5) ‘Law-enforcement agency’ means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state, the United States, county or municipality: *Provided*, That neither the Public Service Commission nor any state institution of higher education nor any resort area district is a law-enforcement agency;

(6) ‘Targeted facility’ means a coal mine, coal preparation plant, petroleum and aluminum refineries, chemical and rubber manufacturing facilities, oil and gas extraction or processing facilities, electric generation facilities and public utilities and any entity regulated by the Public Service Commission;

(7) ‘Unmanned aircraft system’ or ‘system’ means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications and navigation equipment necessary to operate the unmanned aircraft;

(8) ‘Unmanned aircraft system crew member’ or ‘crew member’ means a person other than an unmanned aircraft system pilot who is assigned to duties related to an unmanned aircraft system during flight; and

(9) ‘Unmanned aircraft system pilot’ or ‘pilot’ means a person exercising control over an unmanned aircraft system during flight.

§61-14-2. Applicability of federal laws and Federal Aviation Administration regulations.

Notwithstanding any provision of this article to the contrary, any person or entity operating an unmanned aircraft system shall only do so in compliance with applicable federal law and applicable regulations of the Federal Aviation Administration.

§61-14-3. Prohibited use of an unmanned aircraft system; criminal penalties.

(a) Except as authorized by the provisions of this article, a person may not operate an unmanned aircraft system:

(1) To take photographs or other types of images of another person without the other person’s permission where the person being photographed or whose image is being captured has a reasonable expectation of privacy;

(2) To physically harass another person; or

(3) In a manner with a willful wanton disregard for the safety of persons or property.

(b) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than one year, fined not less than \$100 nor more than \$1000, or both confined and fined.

(c) Any person who equips an unmanned aircraft system with any lethal weapon or operates any unmanned aircraft system equipped with any lethal weapon is guilty of a felony and, upon conviction, shall be imprisoned for not less than one nor more than five years, fined not less than \$1,000 nor more than \$5,000, or both imprisoned and fined.

(d) Any person who operates an unmanned aircraft system with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction, shall be imprisoned for not less than one nor more than five years, fined not less than \$1,000 nor more than \$5,000, or both imprisoned and fined.

§61-14-4. Law-enforcement use of unmanned aircraft systems.

(a) A law-enforcement agency employing unmanned aircraft shall:

(1) Obtain any authorization, permit or certificate required by the Federal Aviation Administration to operate the unmanned aircraft system;

(2) Allow the unmanned aircraft system to be operated only by unmanned aircraft system pilots and unmanned aircraft systems crew members who have been trained and certified in the operation of the unmanned aircraft system and only under the supervision of officials trained in the policies, laws, rules and procedures governing the use of the unmanned aircraft system;

(3) Ensure that the flight of an unmanned aircraft system be approved by the Director of the Commission or his or her designee or the chief executive officer of the law-enforcement agency or the officer's designee;

(4) Operate the unmanned aircraft system for a lawful public purpose;

(5) Maintain a record of each flight, including the time, date and purpose of the flight, and the identity of the authorizing official;

(6) Establish an auditable flight record system, including the documentation of any change in a flight time record;

(7) Establish a method for notifying the public that an unmanned aircraft system is in operation, unless notifying the public would endanger the safety of any person or jeopardize the efficacy of a criminal investigation; and

(8) Provide for community involvement in the development of the policies required in this section, including the consideration of public comment.

(b) Except for an emergency response for public safety purposes or search and rescue purposes, no law-enforcement agency shall, without warrant, use an unmanned aircraft system to intentionally conduct surveillance of, gather evidence or collect information about, or photographically or electronically record specifically targeted persons or specifically targeted private property including, but not limited to, an individual or a dwelling owned by an individual and such dwelling's curtilage, without such individual's written consent;

(c) Any law-enforcement agency operating an unmanned aircraft system for criminal investigative purposes shall document such use, including flight durations, flight path, flight objectives and authorization for the flight. The person with supervisory authority over the flight shall verify that the documentation is accurate and complete. The law-enforcement agency shall retain all documentation required by this subsection for five years; the law-enforcement agency shall not retain any imagery or other data obtained during a flight which does not contain evidence of a crime or is otherwise reasonably related to an agency criminal investigation for more than ninety days.

(d) No law-enforcement agency may use an unmanned aircraft system for purposes of traffic enforcement.

(e) Nothing in this section shall be construed to prohibit the use by a law-enforcement agency of an unmanned aircraft system under circumstances when there is reasonable cause to believe that the use and operation of an unmanned aircraft system would safely avert imminent threats to human life and safety, property damage or environmental damage.

(f) The Law Enforcement Professional Standards Subcommittee, in consultation with the Department of Military Affairs and Public Safety, West Virginia State Police, West Virginia Sheriffs' Bureau for Professional Standards and the West Virginia State Aeronautics Commission, shall propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code. They may promulgate any necessary emergency rules to implement the provisions of this article pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code.

§61-14-5. Unauthorized operation of an unmanned aircraft system over certain industrial facilities; penalties.

(a) The operation of an unmanned aircraft system over the property of a targeted facility to intentionally deploy any substance, material, projectile or object, or to conduct surveillance of, gather evidence and information about, or photographically or electronically record a targeted facility without the prior consent of the owner of the targeted facility is unlawful: *Provided*, That nothing in this section prohibits a person from operating an unmanned aircraft system to conduct surveillance of, gather evidence and information about, or photographically or electronically record the person's own property or immovable property owned by another person under a valid lease, servitude, right-of-way, right of use, permit, license or other right: *Provided, however*, That nothing in this section prohibits third persons retained by the owner of immovable property from operating an

unmanned aircraft system over, or to otherwise conduct surveillance of, gather evidence and information about, or photographically or electronically record the property: Provided further, That nothing in this section prohibits a person from operating an unmanned aircraft system in connection with production of a motion picture, television program or similar production if the operation is authorized by the property owner. The provisions of this subsection do not apply to a law enforcement agency acting in compliance with the provisions of this article.

(b) Any person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500, or confined in a state correctional facility for not more than six months, or both.

(c) Upon conviction for a second or subsequent offense, any person who violates subsection (a) of this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$500 nor more than \$1,000, or confined in a state correctional facility for not less than six months nor more than one year, or both.”

Delegate J. Nelson moved to amend the Judiciary Committee amendment on page five, line ninety-six, following the word “rules”, by inserting the words “excluding a permitting process for private lawful use by the public”.

The Speaker put the question on the adoption of the foregoing amendment, and the same did not prevail.

The Judiciary Committee amendment was then adopted.

There being no further amendments, the bill was ordered to third reading.

Com. Sub. for S. B. 293, Neighborhood Investment Program Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page three, section three, following line seventy-three, by inserting the following:

“‘Direct need programs’ means a program, organization or community endowment that serve persons whose annual income is no more than 125% of the federal poverty level with self-reliance and independence from government assistance as its primary objective.”

And,

On page twenty-three, section four-a, following line five hundred seventy-three, by inserting the following:

“(I) The proposed project is a direct need program or will provide emergency assistance.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-1-3pp; that §11-16-18 of said code be amended and reenacted; that §60-4-3a and §60-4-3b of said code be amended and reenacted; that §60-7-12 of said code be amended and reenacted; and that §60-8-34 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3pp. County option election on allowing nonintoxicating beer, wine or alcoholic liquors to be sold, given or dispensed after ten o'clock a.m. on Sundays.

The county commission of any county may conduct a county option election on the question of whether the sale or dispensing of nonintoxicating beer, wine or alcoholic liquors in or on premises shall be allowed in the county beginning ten o'clock a.m. on any Sunday, as provided in section eighteen, article sixteen, chapter eleven, sections three-a and three-b, article four, chapter sixty of this code, section twelve, article seven of said chapter, and section thirty-four, article eight of said chapter, upon approval as provided in this section. The option election on this question may be placed on the ballot in each county at any primary or general election. The county commission of the county shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election. On the local option election ballot shall be printed the following: 'Shall the beginning hour at which non-intoxicating beer, wine and alcoholic liquor be sold or dispensed for on premises consumption only in _____ County on Sundays be changed from one o'clock p.m. to ten o'clock a.m.

If approved by the voters this would allow private clubs and restaurants licensed to sell and dispense non-intoxicating beer, wine and alcoholic liquor; licensed private wine restaurants, private wine spas, private wine bed and breakfasts to sell and dispense wine; and licensed Class A retail dealers to sell and dispense nonintoxicating beer for on premises consumption only beginning at ten o'clock a.m. Additionally, if approved, it would also allow any mini-distilleries, wineries or farm wineries in this county to offer complimentary samples for on premises consumption only beginning at ten o'clock a.m.'

Yes No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election. Upon receipt of the results of the election, in the event a majority of the votes are marked 'Yes' all applicable licensees shall be permitted prohibited to sell and dispense beer, wine or alcoholic liquors beginning at ten o'clock a.m. on Sundays. In the event a majority of the votes are marked 'No' all applicable licensees will continue to be required to comply with existing law.

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It shall be unlawful:

(1) For any licensee, his, her, its or their servants, agents or employees to sell, give or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected ~~therewith~~, nonintoxicating beer or cooler on weekdays between the hours of two o'clock a.m. and seven o'clock a.m., or between the hours of two o'clock a.m. and one o'clock p.m., or a Class A retail dealer who sells nonintoxicating beer for on premises consumption only between the hours of two o'clock a.m. and ten o'clock a.m. in any county upon approval as provided for in section three-pp, article one, chapter seven of this code, on any Sunday, except in private clubs licensed under the provisions of article seven, chapter sixty of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its or their servants, agents or employees to sell, furnish or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its or their servants, agents or employees to sell, furnish or give any nonintoxicating beer as defined in this article to any person who is less than twenty-one years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and no right of action shall exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section ~~shall prohibit~~ prohibits a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor ~~must~~ shall initiate the transfer no later than noon of one business day after the delivery;

(5) For any brewer or distributor or brew-pub or his, her, its or their agents to transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;

(6) For any brewer or distributor to give, furnish, rent or sell any equipment, fixtures, signs or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift or other similar inducement, except advertising matter of nominal value, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas. Nothing herein contained

in this section shall prohibit prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events: *Provided, however,* That no event shall be sponsored which permits actual participation by athletes or other persons who are minors, unless specifically authorized by the commissioner;

(7) For any licensee to permit in his or her premises any lewd, immoral or improper entertainment, conduct or practice;

(8) For any licensee except the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code or a holder of a license or a private wine restaurant issued under the provisions of article eight of said chapter to possess a federal license, tax receipt or other permit entitling, authorizing or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

(9) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided,* That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of article seven, chapter sixty of this code or the premises of a private wine restaurant licensed under the provisions of article eight of said chapter;

(10) For any licensee to manufacture, import, sell, trade, barter, possess or acquiesce in the sale, possession or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection ~~therewith~~ with it: *Provided,* That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of article seven, chapter sixty of this code nor shall the prohibition be

applicable to a private wine restaurant licensed under the provisions of article eight of said chapter insofar as the private wine restaurant is authorized to serve wine;

(11) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased or acquired from any source other than a distributor, brewer or manufacturer licensed under the laws of this state;

(12) For any licensee to permit loud, boisterous or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community ~~wherein~~ where the business is located: *Provided*, That no licensee may have in connection with his or her place of business any loudspeaker located on the outside of the licensed premises that broadcasts or carries music of any kind;

(13) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

(14) For any distributor to sell, possess for sale, transport or distribute nonintoxicating beer except in the original container;

(15) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

(16) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

(17) For any Class A licensee, his, her, its or their servants, agents or employees, or for any licensee by or through any servants, agents or employees, to allow, suffer or permit any person less than eighteen years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of eighteen years is in or upon the premises in the

immediate company of his or her parent or parents, or where and while a person under the age of eighteen years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities therein sold, or for the purchase of and actually receiving any lawful service therein rendered, including the consumption of any item of food, drink or soft drink therein lawfully prepared and served or sold for consumption on the premises;

(18) For any distributor to sell, offer for sale, distribute or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of such nonintoxicating beer: *Provided*, That nothing herein in this section is considered to prohibit sales of convenience between distributors licensed in this state ~~wherein~~ where one distributor sells, transfers or delivers to another distributor a particular brand or brands for sale at wholesale; and

(19) For any licensee or any agent, servant or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter twenty-nine-a of this code.

(b) Any person who violates any provision of this article including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting application for license or for a renewal of a license or in any hearing concerning the revocation thereof, or who commits any of the acts herein declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than thirty days nor more than six months, or by both fine and confinement. Magistrates shall have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished or given away by the use of the transaction device may not be subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing or giving away of nonintoxicating beer to an individual who is less than twenty-one years of age by one of his or her employees, servants or agents. Any agent, servant or employee who has improperly sold, furnished or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant or employee who has improperly sold, furnished or given away nonintoxicating beer to an individual less than twenty-one years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished or given away; (B) that it has communicated this policy to each employee, servant or agent; and (C) that it monitors the actions of its employees, servants or agents regarding the sale, furnishing or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) ‘Transaction scan’ means the process by which a person checks, by means of a transaction scan device, the age and identity of

the cardholder, and ‘transaction scan device’ means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver’s license or other governmental identity card.

(d) Nothing in this article nor any rule or regulation of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least eighteen years of age to serve in the licensee’s lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family-oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores and convenience stores, may employ persons who are less than eighteen years of age but at least sixteen years of age: *Provided*, That the person’s duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors: *Provided, however*, That the authorization to employ persons under the age of eighteen years shall be clearly indicated on the licensee’s license.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 4. LICENSES.

§60-4-3a. Distillery and mini-distillery license to manufacture and sell.

(a) *Sales of liquor.* — An operator of a distillery or a mini-distillery may offer liquor for retail sale to customers from the distillery or the mini-distillery for consumption off premises only. Except for free complimentary samples offered pursuant to section one, article six of this chapter, customers are prohibited from consuming any liquor on the premises of the distillery or the mini-distillery: *Provided*, That a licensed distillery or mini-distillery may offer

complimentary samples per this subsection of alcoholic liquors manufactured by that licensed distillery or mini-distillery for consumption on the premises only on Sundays beginning at ten o'clock a.m. in any county in which the same has been approved as provided for in section three-pp, article one, chapter seven of this code.

(b) *Retail sales.* — Every licensed distillery or mini-distillery shall comply with the provisions of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the provisions of articles three and four of this chapter applicable to liquor retailers and distillers.

(c) *Payment of taxes and fees.* — The distillery or mini-distillery shall pay all taxes and fees required of licensed retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner, except for payments of the wholesale markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor for sale to customers from the distillery or the mini-distillery for off-premises consumption shall be subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to the commissioner: *Provided, however*, That no liquor sold by the distillery or mini-distillery shall be priced less than the price set by the commissioner pursuant to section seventeen, article three-a of this chapter.

(d) *Payments to market zone retailers.* — Each distillery or mini-distillery shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for the value of all sales at the distillery or the mini-distillery each month. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery or mini-distillery's market zone, proportionate to each market zone retailer's annual gross prior years pretax value sales. The maximum amount of market zone payments that a distillery or mini-distillery shall be required to submit to the commissioner is \$15,000 per annum.

(e) *Limitations on licensees.* — No distillery or mini-distillery may sell more than three thousand gallons of product at the distillery or mini-distillery location the initial two years of licensure. The distillery or mini-distillery may increase sales at the distillery or mini-distillery location by two thousand gallons following the initial twenty-four-month period of licensure and may increase sales at the distillery or mini-distillery location each subsequent twenty-four-month period by two thousand gallons, not to exceed ten thousand gallons a year of total sales at the distillery or mini-distillery location. No licensed mini-distillery may produce more than fifty thousand gallons per calendar year at the mini-distillery location. No more than one distillery or mini-distillery license may be issued to a single person or entity and no person may hold both a distillery and a mini-distillery license.

§60-4-3b. Winery and farm winery license to manufacture and sell.

(a) *Sales of wine.* — An operator of a winery or farm winery may offer wine produced by the winery or farm winery for retail sale to customers from the winery or farm winery for consumption off the premises only. Except for free complimentary samples offered pursuant to section one, article six of this chapter, customers are prohibited from consuming any wine on the premises of the winery or farm winery, unless such winery or farm winery has obtained a multicapacity winery or farm winery license: *Provided, That a licensed winery or farm winery may offer complimentary samples per this subsection of wine manufactured by that licensed winery or farm winery for consumption on the premises only on Sundays beginning at ten o'clock a.m. in any county in which the same has been approved as provided in section three-pp, article one, chapter seven of this code.*

(b) *Retail sales.* — Every licensed winery or farm winery shall comply with the provisions of articles three, four and eight of this chapter as applicable to wine retailers, wineries and suppliers when properly licensed in such capacities.

(c) *Payment of taxes and fees.* — The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner. Each winery or farm winery acting as its own supplier shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in article eight of this chapter.

(d) *Advertising.* — A winery or farm winery may advertise a particular brand or brands of wine produced by it, and the price of the wine subject to federal requirements or restrictions.

(e) *Limitations on licensees.* — A winery or farm winery must maintain separate winery or farm winery supplier, retailer and direct shipper licenses when acting in one or more of those capacities, and must pay all associated license fees, unless such winery or farm winery holds a license issued pursuant to the provisions of subdivision (12), subsection (b), section three, article eight of this chapter. A winery or farm winery, if holding the appropriate licenses or a multicapacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in section two, article six of this chapter; private wine restaurant; and direct shipper for wine produced by the winery or farm winery. All wineries must use a distributor to distribute and sell their wine in the state, except for farm wineries. No more than one winery or farm winery license may be issued to a single person or entity and no person may hold both a winery and a farm winery license.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

(a) It is unlawful for any licensee, or agent, employee or member thereof, on such licensee's premises to:

(1) Sell or offer for sale any alcoholic liquors other than from the original package or container;

(2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper entertainment, conduct or practice, gambling or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine;

(3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine or alcoholic liquors on the licensee's premises, by any person less than twenty-one years of age;

(4) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating beer, wine or alcoholic liquors, for or to any person known to be deemed legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, between the hours of three o'clock a.m. and one o'clock p.m., or, between the hours of three o'clock a.m. and ten o'clock a.m. in any county upon approval as provided for in section three-pp, article one, chapter seven of this code, on any Sunday;

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine or alcoholic liquors, covered by this article, to any person who is less than twenty-one years of age;

(7) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues paying member in good standing of said private club or a guest of such member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium or nitrous oxide

for purposes of human consumption except as authorized by the commissioner;

(10) (A) Employ any person who is less than eighteen years of age in a position where the primary responsibility for such employment is to sell, furnish or give nonintoxicating beer, wine or alcoholic liquors to any person;

(B) Employ any person who is between the ages of eighteen and twenty-one who is not directly supervised by a person aged twenty-one or over in a position where the primary responsibility for such employment is to sell, furnish or give nonintoxicating beer, wine or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the commissioner.

(b) It is unlawful for any licensee to advertise in any news media or other means, outside of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

(c) Any person who violates any of the foregoing provisions is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or imprisoned in the county jail for a period not to exceed one year, or both fined and imprisoned.

ARTICLE 8. SALE OF WINES.

§60-8-34. When retail sales prohibited.

It shall be unlawful for a retailer, farm winery, wine specialty shop retailer, private wine bed and breakfast, private wine restaurant or private wine spa licensee, his or her servants, agents or employees to sell or deliver wine between the hours of two o'clock a.m. and one o'clock p.m., or, it shall be unlawful for a winery, farm winery, private wine bed and breakfast, private wine restaurant or private wine spa, his or her servants, agents or employees to sell wine between the hours of two o'clock a.m. and ten o'clock a.m. in any county upon approval as

provided for in section three-pp, article one, chapter seven of this code, on Sundays, or between the hours of two o'clock a.m. and seven o'clock a.m. on weekdays and Saturdays."

Delegate Marcum moved to amend the amendment on page one, by striking out the enacting section and inserting in lieu thereof the following:

"That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-1-3pp; that §11-16-18 of said code be amended and reenacted; that §20-2-5, §20-2-42g and §20-2-42h of said code be amended and reenacted; that §60-4-3a and §60-4-3b of said code be amended and reenacted; that §60-7-12 of said code be amended and reenacted; and that §60-8-34 of said code be amended and reenacted, all to read as follows:"

And,

On page eight, line one hundred forty-seven, following the period, by inserting thereto three sections, to read as follows:

“CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.

Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging or active illumination while hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the use of artificial light or night vision technology. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than ten days nor more than one hundred days;

(4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping or killing;

(6) Take any beaver or muskrat by any means other than a trap;

(7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear, wild turkey, ruffed grouse, pheasant or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;

(9) Carry an uncased or loaded firearm in the woods of this state with the following permissible exceptions:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds;

(B) A person hunting or taking unprotected species of wild animals, wild birds and migratory wild birds during the open season, in the open fields, open water and open marshes of the state;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; or

(D) A person carrying a firearm for self defense who is not prohibited from possessing firearms by section seven, article seven, chapter sixty-one of this code;

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its attachments,. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian, Eastern Standard Time: *Provided*, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken ~~after the hour of five o'clock ante meridian on Sunday~~ on private land without the written consent of the landowner. ~~any wild animals or wild birds except when a big game season opens on a Monday, the Sunday prior to that~~

~~opening day will be closed for any taking of wild animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps previously and legally set may be tended after the hour of five o'clock ante meridian on Sunday and the person tending the traps may carry firearms for the purpose of humanely dispatching trapped animals. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;~~

(12) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

(13) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(14) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod, line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

(15) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;

(16) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et. seq.*, and its regulations;

(17) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild bird other than a game bird including the plumage, skin or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (*Passer domesticus*), starling (*Sturnus*

vulgaris) and cowbird (*Molothrus ater*), which may be killed at any time;

(18) Use dynamite, explosives or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(19) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

(20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

(21) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(22) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

(23) Shoot an arrow across any public highway;

(24) Permit any dog owned or under his or her control to chase, pursue or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

(25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

(26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;

(27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

~~(28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian: *Provided*, That the provisions of this subdivision do not apply in any county until the county commission of the county holds an election on the question of whether the provisions of this subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the allowance of hunting on Sunday in the county. The election is determined by a vote of the resident voters of the county in which the hunting on Sunday is proposed to be authorized. The county commission of the county in which Sunday hunting is proposed shall give notice to the public of the election by publication of the notice as a Class H-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election.~~

On the local option election ballot shall be printed the following:

Shall hunting on Sunday be authorized on private lands only with the consent of the land owner in _____ County?

Yes

No

(Place a cross mark in the square opposite your choice.)

Any local option election to approve or disapprove of the proposed authorization of Sunday hunting within a county shall be in accordance with procedures adopted by the commission. The local option election may be held in conjunction with a primary or general election or at a special election. Approval shall be by a majority of the voters casting votes on the question of approval or disapproval of Sunday hunting at the election.

If a majority votes against allowing Sunday hunting, an election on the issue may not be held for a period of one hundred four weeks. If a majority votes "yes", an election reconsidering the action may not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which Sunday hunting is authorized. The petition may be in any number of counterparts. The election shall take place at the next primary or general election scheduled more than ninety days following receipt by the county commission of the petition required by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory notice requirements have been met. No local law or regulation providing any penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict with this subdivision.

Amendments to this subdivision promulgated during the 2015 regular session of the Legislature shall have no effect upon the results of elections held prior to their enactment, and

~~(29)~~ (28) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia.

§20-2-42g. Class H nonresident small game hunting license.

A Class H license is a nonresident small game hunting license and entitles the licensee to hunt small game in all counties of the state, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. ~~excluding Sunday in counties closed to Sunday hunting:~~ The fee for the license is \$25. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

§20-2-42h. Class J nonresident small game shooting preserve license.

A Class J license is a nonresident small game shooting preserve license and entitles the licensee to hunt small game on designated shooting preserves, except as prohibited by rules of the Director or Natural Resources Commission and except when additional licenses, stamps or permits are required, for a period of six consecutive hunting days chosen by the licensee. ~~excluding Sunday in counties closed to Sunday hunting.~~ The fee for the license is \$10. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment offered by Delegate Marcum.

To the point of order the Speaker replied, stating that the purpose of the amendment was not germane to the fundamental purpose of the bill.

On the adoption of the amendment recommended by the Committee on the Judiciary, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 479**), and there were--yeas 58, nays 38, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Bates, Blair, Cadle, Campbell, Caputo, Ellington, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hartman, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, McGeehan, Miley, Moffatt, Moore, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, Sponaugle, Trecost, Wagner, Westfall and B. White.

Absent and Not Voting: Blackwell, Deem, Kelly and Storch.

So, a majority of the members present and voting having voted in the affirmative, the amendment was adopted.

There being no further amendments, the bill was ordered to third reading.

Com. Sub. for S. B. 339, Establishing Judicial Compensation Commission; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §4-2A-1, §4-2A-2 and §4-2A-3, all to read as follows:

ARTICLE 2A. JUDICIAL COMPENSATION COMMISSION.**§4-2A-1. Judicial Compensation Commission established; membership.**

(a) The Judicial Compensation Commission is hereby established as an advisory commission to the West Virginia Legislature. The commission shall be responsible for studying the compensation structure for justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates and any other judicial officer subject to election and which office requires the judge to hold a professional license to serve in that position. The commission shall also be responsible for determining and making recommendation as to the adequate compensation for those positions to ensure that highly qualified persons will be attracted to serve on the bench.

(b)The commission shall be comprised of the following five members:

(1) The Dean of the West Virginia University College of Law;

(2) Two individuals appointed by the President of the Senate; and

(3) Two individuals appointed by the Speaker of the House of Delegates.

(c) Any person appointed to serve on the commission pursuant to subdivisions (2) and (3), subsection (b) of this section shall serve for four years: *Provided*, That no public employee, elected public official, person receiving a pension from the State of West Virginia, member of the West Virginia State Bar or officer of a state or county political party executive committee established pursuant to W.Va. Code §3-1-9 may be appointed pursuant to subdivision (2) or (3) subsection (b) of this section to serve on the commission. The initial appointments to the commission shall be made by July 1, 2016. Upon expiration of any term, the person previously appointed shall continue to serve until his

or her successor is duly appointed and qualified to serve on the commission.

(d) A member of the commission is not eligible for appointment to a state judicial position as long as he or she is serving as a member of the commission.

(e) The members of the commission shall serve without compensation but shall be reimbursed by the Joint Committee on Government and Finance for reasonable expenses incurred in carrying out the responsibilities of the commission. Commission members shall be reimbursed at the same rate established for public employees.

(f) In the event of a vacancy on the commission, the unexpired term shall be filled in the same manner used to make the original appointment within sixty days of the vacancy.

§4-2A-2. Commission meetings; where held; how conducted.

(a) The commission shall meet in Charleston, West Virginia, at the place and time designated by the chairperson with at least ten days' written notice to the members of the commission.

(b) The commission shall meet at the call of the chairperson or at the request of a majority of the members.

(c) For purposes of calling the first meeting, the Dean of the West Virginia University College of Law shall serve as the initial chairperson. At its first meeting, the members of the commission will select a chairperson. In the event that the member selected to serve as chairperson ceases to be a member of the commission, the Dean of West Virginia University College of Law shall serve as the chairperson for purposes of calling the next meeting.

(d) A majority of the commission members shall constitute a quorum.

(e) The commission shall meet as often as is necessary to conduct a thorough review of judicial compensation and prepare the report and recommendations provided for in section three of this article.

(f) In furtherance of its duties, the commission may request staff assistance from the Joint Committee on Government and Finance. The Commission may additionally seek assistance and information from the administrative office of the Supreme Court of Appeals as may be necessary in the collection of data and research.

(g) All meetings of the commission and all business conducted by the commission shall be subject to the open meetings provisions of article nine-a, chapter six of this code.

§4-2A-3. Judicial Compensation Commission reports and recommendations; legislative action.

(a) During any time it is convened, the commission shall study the compensation structure for justices of the Supreme Court of Appeals, circuit court judges, family court judges, magistrates and any other judicial officer subject to election and which office requires the judge to hold a professional license to serve in that position for purposes of making a recommendation concerning appropriate compensation for those judicial officers.

(b) In recommending the appropriate salaries of the state's judicial officers, the commission shall consider the following factors:

(1) The skill and experience required of the particular judgeship at issue;

(2) The value of comparable service performed by justices and judges, as determined by reference to judicial compensation in other states and in the federal government;

(3) The value of comparable service performed in the private sector including, but not limited to, private judging, arbitration, and mediation;

(4) The compensation of attorneys in the private sector;

(5) The cost of living;

(6) The compensation presently received by other public officials in the state;

(7) The level of overall compensation adequate to attract the most highly qualified individuals in the state, from a diversity of life and professional experiences, to serve the judiciary without unreasonable hardship and with judicial independence unaffected by financial concerns; and

(8) Any other information the commission may find relevant in its mission to determine the appropriate compensation for the state's judicial officers.

(c) The commission shall prepare and submit its first report containing its recommendations no later than September 1, 2017. The commission shall then prepare and submit subsequent reports on or before September 1 of each year thereafter, except during those years that the commission is adjourned pursuant to the provisions of subsection (f) of this section.

(d) The commission shall send a copy of its recommendations to the Governor, the Joint Committee on Government and Finance, the Chief Justice of the Supreme Court of Appeals and the Administrative Director of the Supreme Court of Appeals.

(e) In the immediate legislative session following the year in which a recommendation is received from the commission, a bill adopting the salary recommendations made by the commission shall be introduced by the presiding officer in both the Senate and the House of Delegates: *Provided*, That such bill shall be introduced no later than the twentieth day of the regular legislative session.

(f) The commission shall continue to meet and prepare updated recommendations, and a bill adopting the salary recommendations shall continue to be introduced in accordance with the following schedule:

(1) If the bill introduced pursuant to subsection (e) of this section is enacted adopting the complete recommendations of the commission, the commission shall then be adjourned for three years from the effective date of the increase.

(2) If the bill introduced pursuant to subsection (e) of this section is not enacted or, if that bill is enacted, but adopts salaries less than those which were recommended by the commission, the commission shall continue to meet annually to prepare updated recommendations to provide to the parties identified in subsection (d) of this section.”

On motion of Delegates Shott and E. Nelson, the amendment was amended page four, section three, line thirty-one, following the word “commission”, by striking out the word “shall” and inserting in lieu thereof the word “may”.

On page four, section three, line thirty-two, following the word “Delegates”, by inserting a period and striking out the remainder of the subsection.

And,

On page four, section three, line thirty-four, following the words “updated recommendations”, by striking out the comma and the words “and a bill adopting the salary recommendations shall continue to be introduced”.

The amendment, as amended, was then adopted.

There being no further amendments, the bill was ordered to third reading.

S. B. 345, Relating to parking on state-owned or leased property; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page three, section three-a, line forty-three, after the words "Garage Fund", by inserting the words "created in the former section five, article four of this chapter".

The bill was then ordered to third reading.

Com. Sub. for S. B. 361, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"That §61-2-10a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10a. Violent crimes against the elderly; sentence not subject to suspension or probation.

If any person be convicted and sentenced for an offense defined under the provisions of section nine or ten of this article, and if the person shall have committed such offense against a person who is sixty-five years of age or older, then the sentence shall be mandatory and shall not be subject to suspension or probation: *Provided*, That the court may, in its discretion, suspend the sentence and order probation to any person so convicted upon condition that such person perform public service for a period of time deemed appropriate by the court: ~~which service shall~~ *Provided, however, That the public service may not* be rendered in or about facilities or programs providing care or

services for the elderly: *Provided ~~however~~ further*, That the court may apply the provisions of article eleven-a, chapter sixty-two of this code to a person committed to a term of one year or less.

(b) The existence of any fact which would make any person ineligible for probation under subsection (a) of this section because of the commission or attempted commission of a felony against a victim sixty-five years of age or older shall not be applicable unless such fact is: (i) Found by the court upon a plea of guilty or nolo contendere; or (ii) found by the jury, if the matter is tried before a jury; or (iii) found by the court, if the matter is tried by the court, without a jury.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 378, Relating to truancy intervention; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Shott, and by unanimous consent, the bill was advanced to third reading with an amendment pending and restricted right to amend by Delegates Shott and Perdue, individually, and the rule was suspended to permit the consideration of the amendments on that reading.

S. B. 431, Authorizing pharmacists and pharmacy interns dispense opioid antagonists; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page four, section six, line five, after the word “health”, by inserting a comma and adding the words “Joint Committee on Health”.

And,

On page five, section six, line thirty-four, after the words “accountability”, by inserting a comma and adding “Joint Committee on Health”.

The bill was then ordered to third reading.

S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page seventeen, by inserting a new subsection to read as follows:

“(cc) ‘Telehealth’ means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site.”

And re-lettering the remaining the subsections.

On page twenty-eight, line one hundred eighteen, after the word, “plans”, by inserting the words “or treatment strategies”.

On page twenty-nine, line one hundred fifty-five after the semicolon, by removing “and” and the semicolon.

On page thirty, line one hundred sixty-four, by removing the period inserting a semicolon and the following:

“and,

(7) The medication-assisted treatment program shall have a drug testing program to ensure a patient is in compliance with the treatment strategy.”

On page thirty, line one hundred seventy, by inserting the following:

“(p) If a physician treats a patient with more than sixteen milligrams per day of buprenorphine then clear medical notes shall be placed in the patient’s medical file indicating the clinical reason or reasons for the higher level of dosage.”

“(q) If a physician is not the patient’s obstetrical or gynecological provider, the physician shall consult with the patient’s obstetrical or gynecological provider to the extent possible to determine whether the prescription is appropriate for the patient.”

“(r) A practitioner providing medication-assisted treatment may perform certain aspects telehealth if permitted under his or her scope of practice.”

“(s) The physician shall follow the recommended manufacturer’s tapering schedule for the medication assisted treatment medication. If the schedule is not followed, the physician shall document in the patient’s medical record and the clinical reason why the schedule was not followed. The secretary may investigate a medication-assisted treatment program if a high percentage of its patients are not following the recommended tapering schedule.”

On page thirty-four, line ten, by striking out the word “shall” and inserting the word, “may”.

On page forty-one, line thirty-eight, after the period by inserting the following:

“(e) The Board of Pharmacy shall notify a physician prescribing buprenorphine or buprenorphine/naloxone within sixty days of the availability of the an abuse deterrent form of buprenorphine or buprenorphine/naloxone is approved by the Food and Drug Administration as provided in FDA Guidance to Industry. Upon receipt of the notice, a physician may switch their patients using buprenorphine or buprenorphine/naloxone to the abuse deterrent form of the drug.”

And,

On page fifty, line twelve, after the period by inserting the following:

“There is created within the Office of the Secretary of the Department of Health and Human Resources the Grant Writer Pilot Project. The Secretary shall hire a person as a grant writer, who shall be placed within the Office of the Secretary. This person shall identify, application and monitoring policies and procedures to increase grant applications and improve management and oversight of grants. The grant writer shall focus his or her abilities on obtaining grants concerning the prevention and treatment of substance abuse. The grant writer is not eligible for civil service. The department shall report to the Legislative Oversight Commission on Health and Human Resources Accountability on the implementation of the new grant policy; the number of grants obtained; and an analysis examining the costs associated with obtaining a grant verses the federal money received.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 504, Relating to confidentiality of juvenile records; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §49-5-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §62-6B-2 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §62-6B-6, all to read as follows:

CHAPTER 49. CHILD WELFARE.**ARTICLE 5. RECORDKEEPING AND DATABASE.****§49-5-101. Confidentiality of records; nonrelease of records; exceptions; penalties.**

(a) Except as otherwise provided in this chapter or by order of the court, all records and information concerning a child or juvenile which are maintained by the Division of Juvenile Services, the Department of Health and Human Resources, a child agency or facility, court or law-enforcement agency is confidential and shall not be released or disclosed to anyone, including any federal or state agency.

(b) Notwithstanding the provisions of subsection (a) of this section or any other provision of this code to the contrary, records concerning a child or juvenile, except adoption records and records disclosing the identity of a person making a complaint of child abuse or neglect may be made available:

(1) Where otherwise authorized by this chapter;

(2) To:

(A) The child;

(B) A parent whose parental rights have not been terminated; or

(C) The attorney of the child or parent;

(3) With the written consent of the child or of someone authorized to act on the child's behalf; or

(4) Pursuant to an order of a court of record. However, the court shall review the record or records for relevancy and materiality to the issues in the proceeding and safety, and may issue an order to limit the examination and use of the records or any part thereof.

(c) In addition to those persons or entities to whom information may be disclosed under subsection (b) of this section, information related to child abuse or neglect proceedings, except information relating to the identity of the person reporting or making a complaint of child abuse or neglect, shall be made available, upon request, to:

(1) Federal, state or local government entities, or any agent of those entities, including law-enforcement agencies and prosecuting attorneys, having a need for that information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(2) The child fatality review team;

(3) Child abuse citizen review panels;

(4) Multidisciplinary investigative and treatment teams; or

(5) A grand jury, circuit court or family court, upon a finding that information in the records is necessary for the determination of an issue before the grand jury, circuit court or family court.

(d) In the event of a child fatality or near fatality due to child abuse and neglect, information relating to a fatality or near fatality shall be made public by the Department of Health and Human Resources and to the entities described in subsection (c) of this section, all under the circumstances described in that subsection. However, information released by the Department of Health and Human Resources pursuant to this subsection may not include the identity of a person reporting or making a complaint of child abuse or neglect. For purposes of this subsection, 'near fatality' means any medical condition of the child which is certified by the attending physician to be life threatening.

(e) Except in juvenile proceedings which are transferred to criminal proceedings, law-enforcement records and files concerning a child or juvenile shall be kept separate from the records and files of adults and not included within the court files. Law-enforcement records

and files concerning a child or juvenile shall only be open to inspection pursuant to section one hundred three of this article.

(f) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000, or confined in jail for not more than six months, or both fined and confined. A person convicted of violating this section is also liable for damages in the amount of \$300 or actual damages, whichever is greater.

(g) Notwithstanding the provisions of this section, or any other provision of this code to the contrary, the name and identity of any juvenile adjudicated or convicted of a violent or felonious crime shall be made available to the public;

(h)(1) Notwithstanding the provisions of this section, or any other provision of this code to the contrary, the Division of Juvenile Services may provide access to and the confidential use of a treatment plan, court records or other records of a juvenile to an agency in another state which:

(A) Performs the same functions in that state that are performed by the Division of Juvenile Services in this state;

(B) Has a reciprocal agreement with this state; and

(C) Has legal custody of the juvenile.

(2) A record which is shared under this subsection may only provide information which is relevant to the supervision, care, custody and treatment of the juvenile.

(3) The Division of Juvenile Services is authorized to enter into reciprocal agreements with other states and to propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement this subsection.

(4) Other than the authorization explicitly given in this subsection, this subsection may not be construed to enlarge or restrict access to juvenile records as provided elsewhere in this code.

(i) The records subject to disclosure pursuant to subsection (b) of this section shall not include a recorded/videotaped interview, as defined in subdivision (6), section two, article six-b, chapter sixty-two of this code, the disclosure of which is exclusively subject to the provisions of section six of said article.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 6B. PROTECTION AND PRESERVATION OF STATEMENTS AND TESTIMONY OF CHILD WITNESS.

§62-6B-2. Definitions.

For the purposes of this article, the words or terms defined in this section, and any variation of those words or terms required by the context, have the meanings ascribed to them in this section. These definitions are applicable unless a different meaning clearly appears from the context.

(1) ‘Child witness’ means a person under the age of sixteen years of age who is or will be called to testify in a criminal matter concerning an alleged violation of the provisions of sections three, four, five and seven, article eight-b, chapter sixty-one of this code in which the child is the alleged victim.

(2) ‘Live, closed-circuit television’ means a simultaneous transmission, by closed-circuit television or other electronic means, between the courtroom and the testimonial room.

(3) ‘Operator’ means the individual authorized by the court to operate the closed-circuit television equipment used in accordance with the provisions of this article.

(4) 'Testimonial room' means a room within the courthouse other than the courtroom from which the testimony of a child witness or the defendant is transmitted to the courtroom by means of live, closed-circuit television.

(5) 'Interviewed child' shall mean any person under the age of eighteen who has been interviewed by means of any type of recording equipment in connection with alleged criminal behavior or allegations of abuse or neglect of any child under the age of eighteen.

(6) 'Recorded interview' means any electronic recording of the interview, and any transcript thereof, of an interviewed child conducted by: (1) An employee or representative of a child advocacy center as that term is defined in section one hundred one, article three, chapter forty-nine of this code; (2) any psychologist, psychiatrist, physician, nurse, social worker or other person appointed by the court to interview the interviewed child as provided in subsection (c), section three of this article; or (3) a child protective services worker, law-enforcement officer, prosecuting attorney or any representative of his or her office, or any other person investigating allegations of criminal behavior or behavior alleged to constitute abuse or neglect of a child.

§62-6B-6. Confidentiality of recorded interviews of children.

(a) Except as provided by the provisions of this article, recorded interviews of an interviewed child in any judicial or administrative proceeding shall not be published or duplicated except pursuant to the terms of an order of a court of competent jurisdiction. All written documentation in any form that is related to the recorded interview shall also be deemed confidential.

(b) Prior to the commencement of formal proceedings as contemplated in subsection (a) of this section, the persons or agencies listed in subdivision (6), section two of this article, shall be entitled to access to or copies of the recorded interview of an interviewed child: *Provided, That such persons or agencies may provide access to the*

recorded interview of a child to a legal parent, guardian or custodian of such child when (1) such parent, guardian or custodian is not alleged to have been involved or engaged in conduct that may give rise to a judicial or administrative proceeding, and (2) it would not undermine or frustrate an ongoing investigation: *Provided, however, That prior to the commencement of formal proceedings only psychologists, psychiatrists, physicians, nurses and social workers who are providing services to the interviewed child may be afforded reasonable access to the recorded interview.*

(c) The Supreme Court of Appeals is requested to promulgate a rule or rules regulating in the courts of this state the publication and duplication of recorded interviews, including use, duplication and publication by counsel, and to include in any such rule, limitations upon the publication, duplication, distribution or use of the recorded statements of a child.

(d) Any person who knowingly and willfully duplicates or publishes a recorded interview in violation of the terms of an order entered by a court of competent jurisdiction or in violation of the provisions of subsection (b) of this section shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for not less than ten days nor more than one year or fined not less than \$2,000 nor more than \$10,000, or both fined and confined.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 517, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 563, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 567, Providing protection against property crimes committed against coal mines, railroads, utilities and other industrial facilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section twenty-nine, line thirty-five, by striking out subsection (e) in its entirety, and inserting in lieu thereof a new subsection (e) to read as follows:

“(e) For purposes of restitution under article eleven-a of this article, a railroad company, public utility, business, or owner of property that is damaged, destroyed or disrupted may be deemed a victim and entitled to restitution, should the Court so order, from any person convicted of an offense under this section.”

The bill was then ordered to third reading.

S. B. 588, Repealing certain obsolete legislative rules by Department of Transportation; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §64-8-4, to read as follows:

**ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF
TRANSPORTATION TO PROMULGATE
LEGISLATIVE RULES.**

§64-8-4. Division of Motor Vehicles.

(a) The legislative rule effective on January 1, 1964, authorized under the authority of section twelve, article two, chapter seventeen-a of this code, relating to the Division of Motor Vehicles (rules and regulations, 91 CSR 2), is repealed.

(b) The legislative rule effective on October 24, 1971, authorized under the authority of section nine, article two, chapter seventeen-a of this code, relating to the Division of Motor Vehicles (special permits, 91 CSR 7), is repealed.

(c) The legislative rule effective on May 4, 1984, authorized under the authority of section three, article five-a, chapter seventeen-c of this code, relating to the Division of Motor Vehicles (safety and treatment program, 91 CSR 15), is repealed.

(d) The procedural rule effective on July 9, 1984, authorized under the authority of section nine, article two, chapter seventeen-a of this code, relating to the Division of Motor Vehicles (dealer and financial institution applicant or licensee administrative hearings, 91 CSR 17), is repealed.

(e) The legislative rule effective on June 12, 1987, authorized under the authority of section nine, article two, chapter seventeen-a of this code, relating to the Division of Motor Vehicles (seizure of driver's license, issuance of the temporary driver's license, 91 CSR 20), is repealed.

(f) The legislative rule effective on June 12, 1987, authorized under the authority of section nine, article two, chapter seventeen-a of this code, relating to the Division of Motor Vehicles (Federal Safety Standards Inspection Program, 91 CSR 21), is repealed.

(g) The interpretive rule effective on September 23, 1988, authorized under the authority of section nine, article two, chapter seventeen-a, relating to the Division of Motor Vehicles (dealer issuance of temporary registration plates, 91 CSR 18), is repealed.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §22-15-2 and §22-15-10 of the Code of West Virginia, 1931, as amended and to amend said code by adding thereto a new section, designated §24-2-11, to read as follows:

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-2. Definitions.

Unless the context clearly requires a different meaning, as used in this article the terms:

(1) ‘Agronomic rate’ means the whole sewage sludge application rate, by dry weight, designed:

(A) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop or vegetation on the land; and

(B) To minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

(2) ‘Applicant’ means the person applying for a commercial solid waste facility permit or similar renewal permit and any person related

to such person by virtue of common ownership, common management or family relationships as the director may specify, including the following: Spouses, parents and children and siblings.

(3) ‘Approved solid waste facility’ means a solid waste facility or practice which has a valid permit under this article.

(4) ‘Back hauling’ means the practice of using the same container to transport solid waste and to transport any substance or material used as food by humans, animals raised for human consumption or reusable item which may be refilled with any substance or material used as food by humans.

(5) ‘Bulking agent’ means any material mixed and composted with sewage sludge.

(6) ‘Class A facility’ means a commercial solid waste facility which handles an aggregate of between ten thousand and thirty thousand tons of solid waste per month. Class A facility includes two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate tons of solid waste handled per month by such landfills exceeds nine thousand nine hundred ninety-nine tons of solid waste per month.

(7) ‘Commercial recycler’ means any person, corporation or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least seventy percent by weight of the materials coming into the commercial recycling facility.

(8) ‘Commercial solid waste facility’ means any solid waste facility which accepts solid waste generated by sources other than the owner or operator of the facility and does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing or composting of solid wastes created by that person or such person and other persons on a cost-sharing or nonprofit

basis and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation and similar applications.

(9) ‘Compost’ means a humus-like material resulting from aerobic, microbial, thermophilic decomposition of organic materials.

(10) ‘Composting’ means the aerobic, microbial, thermophilic decomposition of natural constituents of solid waste to produce a stable, humus-like material.

(11) ‘Commercial composting facility’ means any solid waste facility processing solid waste by composting, including sludge composting, organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such person and other persons on a cost-sharing or nonprofit basis and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.

(12) ‘Cured compost’ or ‘finished compost’ means compost which has a very low microbial or decomposition rate which will not reheat or cause odors when put into storage and that has been put through a separate aerated curing cycle stage of thirty to sixty days after an initial composting cycle or compost which meets all regulatory requirements after the initial composting cycle.

(13) ‘Department’ means the Department of Environmental Protection.

(14) ‘Energy recovery incinerator’ means any solid waste facility at which solid wastes are incinerated with the intention of using the resulting energy for the generation of steam, electricity or any other use not specified herein.

(15) ‘Incineration technologies’ means any technology that uses controlled flame combustion to thermally break down solid waste,

including refuse-derived fuel, to an ash residue that contains little or no combustible materials, regardless of whether the purpose is processing, disposal, electric or steam generation or any other method by which solid waste is incinerated.

(16) ‘Incinerator’ means an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

(17) ‘Landfill’ means any solid waste facility for the disposal of solid waste on or in the land for the purpose of permanent disposal. Such facility is situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located.

(18) ‘Materials recovery facility’ means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

(19) ‘Mature compost’ means compost which has been produced in an aerobic, microbial, thermophilic manner and does not exhibit phytotoxic effects.

(20) ‘Mixed solid waste’ means solid waste from which materials sought to be reused or recycled have not been source-separated from general solid waste.

(21) ‘Mixed waste processing facility’ means any solid waste facility at which materials are recovered from mixed solid waste through manual or mechanical means for purposes of reuse, recycling or composting.

(22) ‘Municipal solid waste incineration’ means the burning of any solid waste collected by any municipal or residential solid waste disposal company.

(23) 'Oil and natural gas solid waste' means waste associated with the exploration, development, production, storage or recovery of crude oil and natural gas, including drilling fluids and produced waters.

(24)(23) 'Open dump' means any solid waste disposal which does not have a permit under this article, or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

(25)(24) 'Person' or 'persons' means any industrial user, public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

(26)(25) 'Publicly owned treatment works' means any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity which processes raw domestic, industrial or municipal sewage by any artificial or natural processes in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort or property of any of the inhabitants of this state before the discharge of the plant effluent into any of the waters of this state, and which produces sewage sludge.

(27)(26) 'Recycling facility' means any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical or thermal transformation of solid waste occurs: *Provided*, That mixed waste recovery facilities, sludge processing facilities and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of this article, article fifteen-a of this chapter and article four, chapter twenty-two-c of this code.

(28)(27) 'Sewage sludge' means solid, semisolid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum or solids removed in primary, secondary or advanced wastewater treatment processes and a material derived from sewage sludge. 'Sewage sludge' does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator.

(29)(28) 'Secretary' means the Secretary of the Department of Environmental Protection or such other person to whom the Secretary has delegated authority or duties pursuant to article one of this chapter.

(30)(29) 'Sewage sludge processing facility' is a solid waste facility that processes sewage sludge for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes include, but are not limited to, composting, lime stabilization, thermophilic, microbial and anaerobic digestion.

(31)(30) 'Sludge' means any solid, semisolid, residue or precipitate, separated from or created by a municipal, commercial or industrial waste treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar origin.

(32)(31) 'Solid waste' means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration; sludge from a waste treatment plant; water supply treatment plant or air pollution control facility; and other discarded materials, including offensive or unsightly matter, solid, liquid, semisolid or contained liquid or gaseous material resulting from industrial, commercial, mining or community activities but does not include solid or dissolved material in sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under article five-a of this chapter, or source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or byproduct material considered by federal standards to be below regulatory concern, or a hazardous waste

either identified or listed under article five-e of this chapter or refuse, slurry, overburden or other wastes or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage and recovery of coal, oil and gas and other mineral resources placed or disposed of at a facility which is regulated under chapter twenty-two, twenty-two-a or twenty-two-b of this code, so long as placement or disposal is in conformance with a permit issued pursuant to such chapters.

(33)~~(32)~~ ‘Solid waste disposal’ means the practice of disposing of solid waste including placing, depositing, dumping or throwing or causing any solid waste to be placed, deposited, dumped or thrown.

(34)~~(33)~~ ‘Solid waste disposal shed’ means the geographical area which the solid waste management board designates and files in the state register pursuant to section eight, article twenty-six, chapter sixteen of this code.

(35)~~(34)~~ ‘Solid waste facility’ means any system, facility, land, contiguous land, improvements on the land, structures or other appurtenances or methods used for processing, recycling or disposing of solid waste, including landfills, transfer stations, materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with section twenty of this article. Such facility shall be deemed to be situated, for purposes of this article, in the county where the majority of the spatial area of such facility is located: *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of article twenty-three, chapter seventeen of this code, is not a solid waste facility.

(36)~~(35)~~ ‘Solid waste facility operator’ means any person or persons possessing or exercising operational, managerial or financial control over a commercial solid waste facility, whether or not such person holds a certificate of convenience and necessity or a permit for such facility.

(37)(36) 'Source-separated materials' means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

§22-15-10. Prohibitions; permits required.

(a) Open dumps are prohibited and it is unlawful for any person to create, contribute to or operate an open dump or for any landowner to allow an open dump to exist on the landowner's property unless that open dump is under a compliance schedule approved by the director. Such compliance schedule shall contain an enforceable sequence of actions leading to compliance and shall not exceed two years. Open dumps operated prior to the first day of April, one thousand nine hundred eighty-eight, by a landowner or tenant for the disposal of solid waste generated by the landowner or tenant at his or her residence or farm are not a violation of this section if such open dump did not constitute a violation of law on the first day of January, one thousand nine hundred eighty-eight, and unauthorized dumps which were created by unknown persons do not constitute a violation of this section: *Provided*, That no person may contribute additional solid waste to any such dump after the first day of April, one thousand nine hundred eighty-eight, except that the owners of the land on which unauthorized dumps have been or are being made are not liable for such unauthorized dumping unless such landowners refuse to cooperate with the division in stopping such unauthorized dumping.

(b) It is unlawful for any person, unless the person holds a valid permit from the division to install, establish, construct, modify, operate or abandon any solid waste facility. All approved solid waste facilities shall be installed, established, constructed, modified, operated or abandoned in accordance with this article, plans, specifications, orders, instructions and rules in effect.

(c) Any permit issued under this article shall be issued in compliance with the requirements of this article, its rules and article eleven of this chapter and the rules promulgated thereunder, so that

only a single permit is required of a solid waste facility under these two articles. Each permit issued under this article shall have a fixed term not to exceed five years: *Provided*, That the director may administratively extend a permit beyond its five-year term if the approved solid waste facility is in compliance with this article, its rules and article eleven of this chapter and the rules promulgated thereunder: *Provided, however*, That such administrative extension may not be for more than one year. Upon expiration of a permit, renewal permits may be issued in compliance with rules promulgated by the director.

(d) For existing solid waste facilities which formerly held division of health permits which expired by law and for which complete permit applications for new permits pursuant to this article were submitted as required by law, the division may enter an administrative order to govern solid waste activities at such facilities, which may include a compliance schedule, consistent with the requirements of the division's solid waste management rules, to be effective until final action is taken to issue or deny a permit for such facility pursuant to this article, or until further order of the division.

(e) No person may dispose in the state of any solid waste in a manner which endangers the environment or the public health, safety or welfare as determined by the director: *Provided*, That the carcasses of dead animals may be disposed of in any solid waste facility or in any other manner as provided for in this code. Upon request by the director, the commissioner of the bureau of public health shall provide technical advice concerning the disposal of solid waste or carcasses of dead animals within the state.

(f) A commercial solid waste facility shall not discriminate in favor of or against the receipt of any waste otherwise eligible for disposal at the facility based on its geographic origin.

(g) In addition to all the requirements of this article and the rules promulgated hereunder, a permit to construct a new commercial solid waste facility or to expand the spatial area of an existing facility, may

not be issued unless the public service commission has granted a certificate of need, as provided in section one-c, article two, chapter twenty-four of this code. If the director approves a permit or permit modification, the certificate of need shall become a part of the permit and all conditions contained in the certificate of need shall be conditions of the permit and may be enforced by the division in accordance with the provisions of this article. If the director approves a permit or permit modification, the certificate of need shall become a part of the permit and all conditions contained in the certificate of need shall be conditions of the permit and may be enforced by the division in accordance with the provisions of this article: Provided, That the provisions of this subsection do not apply to materials recovery facilities, mixed waste processing facilities or oil and natural gas solid waste as defined by chapter twenty-two, article fifteen, section two of this code, except within a thirty-five mile radius of a facility sited in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016.

(h) The director shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code which reflect the purposes as set forth in this section.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-11. Commission jurisdiction does not extend to materials recovery facilities, mixed waste processing facilities, and oil and natural gas solid waste disposal.

(a) Notwithstanding any other provision of this code, the jurisdiction of the commission does not extend to materials recovery facilities, mixed waste processing facilities or disposal of oil and

natural gas solid waste as defined by chapter twenty-two, article fifteen, section two of this code, except within a thirty-five mile radius of a facility sited in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016: *Provided*, That nothing in this chapter shall affect the requirements of section five, article two and section three, article three, of chapter twenty-four-a of this code.”

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on questions related to Com. Sub. for S. B. 601 under the provisions of House Rule 49, including amendments and passage on tomorrow.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Delegates Foster and Hanshaw requested to be excused from voting on question related to Com. Sub. for S. B. 601 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

Mr. Speaker, Mr. Armstead, in the Chair

An amendment to the amendment, recommended by Delegate Pushkin, was reported by the Clerk.

Whereupon,

Delegate Pushkin then asked and obtained unanimous consent to withdraw the amendment and offer a reformed amendment in its stead, as follows:

On page four, section two, lines seventy-six through seventy-eight, by striking out paragraph twenty-three in its entirety.

On pages four through seven, section two, by renumbering all subsequent paragraphs accordingly.

On page nine, section ten, line fifty-four, by striking out the words “or oil and natural gas solid waste”.

And,

On page nine, section one-1, lines two and three, by striking out the words “or disposal of oil and natural gas solid waste”.

The Speaker put the question on the adoption of the foregoing amendment, and the same was adopted.

An amendment to the amendment, recommended by Delegates Folk and Skinner, was reported by the Clerk on page nine, section ten, line fifty-three, immediately following the word “sited”, by striking out the words “in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016” and inserting in lieu thereof the following: “in a county that is, in whole or in part, within a karst region as determined by the West Virginia Geologic and Economic Survey that has been permitted and classified by the WVDEP as a mixed waste processing resource recovery facility and has received a certificate of need by July 1, 2016.”

And,

On page nine, section one-1, line four, immediately following the word “sited”, by striking out the words “in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016” and inserting in lieu

thereof the following: “in a county that is, in whole or in part, within a karst region as determined by the West Virginia Geologic and Economic Survey that has been permitted and classified by the WVDEP as a mixed waste processing resource recovery facility and has received a certificate of need by July 1, 2016.”

Whereupon,

Delegate Folk asked and obtained unanimous consent that the amendment be withdrawn.

On motion of Delegates Folk and Skinner, the Judiciary amendment was amended on page nine, section one-l, line four, immediately following the word “sited”, by striking out the words “in a karst geological region and which has been permitted by the West Virginia Department of Environmental Protection as a mixed waste processing facility and has received a certificate of need by July 1, 2016” and inserting in lieu thereof “in a county that is, in whole or in part, within a karst region as determined by the West Virginia Geologic and Economic Survey that has been permitted and classified by the WVDEP as a mixed waste processing resource recovery facility and has received a certificate of need by July 1, 2016.”

The Judiciary Committee amendment, as amended, was then adopted.

There being no further amendments, the bill was ordered to third reading.

Com. Sub. for S. B. 602, Relating to Patient Injury Compensation Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page six, section one-a, line twenty-eight, following the words “in the year in which”, by inserting the words “physicians or”.

On page seven, section one-a, line forty-two, following the word “levied”, by inserting the words “by the Board of Risk and Insurance Management”.

On page seven, section one-a, line forty-four, following the sentence ending with the word “Registry”, by striking the remaining sentences in the subsection, and inserting in lieu thereof the following:

“Beginning July 1, 2016, and annually thereafter until June 30, 2020, the Board of Risk and Insurance Management shall assess each trauma center for trauma patients treated from January 1 to December 31 of the previous year: *Provided*, That the assessment to be collected by the Board of Risk and Insurance Management on June 30, 2017 shall be based on each trauma patient treated from January 1, 2016 to December 31, 2016.”

And,

On page thirteen, section nine-c, line sixteen, by striking out the word “suffers” and inserting in lieu thereof a comma and the following words: “as a result of an injury suffered prior to or after said date, suffers or has suffered”.

Delegate Manchin requested to be excused from voting on Com. Sub. for S. B. 602 under the provisions of House Rule 49.

The Speaker replied that Delegate Manchin may exhibit direct pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

The Speaker put the question on the adoption of the foregoing Judiciary Committee amendment, and the same was adopted.

The bill was then ordered to third reading.

S. B. 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters; on second reading, coming up in

regular order, was, at the request of Delegate Cowles and by unanimous consent, placed at the foot of bills on second reading.

Com. Sub. for S. B. 619, 2016 Regulatory Reform Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §29A-3-5 and §29A-3-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto two new sections, designated §29A-3-19 and §29A-3-20; and that said code be amended by adding thereto a new section, designated §29A-3A-20, all to read as follows:

ARTICLE 3. RULEMAKING.

§29A-3-5. Notice of proposed rulemaking.

When an agency proposes to promulgate a rule other than an emergency rule, it shall file with the Secretary of State, for publication in the State Register, a notice of its action, including therein any request for the submission of evidence to be presented on any factual determinations or inquiries required by law to promulgate such rule. At the time of filing the notice of its action, the agency shall also file with the Secretary of State a copy of the full text of the rule proposed and a fiscal note as defined in subsection (b), section four of this article. If the agency is considering alternative draft proposals, it may also file with the Secretary of State the full text of such draft proposals.

The notice shall fix a date, time and place for the receipt of public comment in the form of oral statements, written statements and documents bearing upon any findings and determinations which are a condition precedent to the final approval by the agency of the proposed rule, and shall contain a general description of the issues to be decided.

If no specific findings and determinations are required as a condition precedent to the final approval by the agency of the approved rule, the notice shall fix a date, time and place for the receipt of general public comment on the proposed rule. To comply with the public comment provisions of this section, the agency may hold a public hearing or schedule a public comment period for the receipt of written statements and documents, or both.

If findings and determinations are a condition precedent to the promulgation of such rule, then an opportunity for general public comment on the merits of the rule shall be afforded after such findings and determinations are made. In such event, notice of the hearing or of the period for receiving public comment on the proposed rule shall be attached to and filed as a part of the findings and determinations of the agency when filed in the State Register.

In any hearing for public comment on the merits of the rule, the agency may limit presentations to written material. The time, date and place fixed in the notice shall constitute the last opportunity to submit any written material relevant to any hearing, all of which may be earlier submitted by filing with the agency. After the public hearing or the close of the public comment period, whichever is later, the agency shall not permit the filing or receipt of, nor shall it consider, any attempted ex parte communications directed to it in the form of additional comment prior to the submission of its final agency-approved rule to the Legislative Rule-Making Review Committee pursuant to the provisions of section eleven of this article.

The agency may also, at its expense, cause to be published as a Class I legal publication in every county of the state any notice required by this section.

Any citizen or other interested party may appear and be heard at such hearings as are required by this section.

Prior to the submission of any agency approved proposed rule to the Secretary of State, the agency shall respond to public comments

received during the rule-making process and explain the reasoning for comments being incorporated or not incorporated into the rule. Failure to adequately respond to public comments may be grounds for rejection of the proposed rule.

§29A-3-11. Submission of legislative rules to the Legislative Rule-Making Review Committee.

(a) When an agency finally approves a proposed legislative rule for submission to the Legislature, pursuant to the provisions of section nine of this article, the secretary of the executive department which administers the agency pursuant to the provisions of article two, chapter five-f of this code shall submit to the Legislative Rule-Making Review Committee at its offices or at a regular meeting of such committee ~~fifteen copies of~~ a number of copies in electronic or paper form as requested by the committee, which shall include the following information:

(1) The full text of the legislative rule as finally approved by the agency, with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;

(2) ~~a~~ A brief summary of the content of the legislative rule and a description and a copy of any existing rule which the agency proposes to amend or repeal;

(3) ~~a~~ A statement of the circumstances which require the rule;

(4) A detailed description of the rule's purpose and all proposed changes to the rule;

~~(4) a~~ (5) A fiscal note containing all information included in a fiscal note for either house of the Legislature and a statement of the economic impact of the rule on the state or its residents;

~~(5) one~~ (6) One copy of any relevant federal statutes or regulations; and

(7) An explanation of the statutory authority for the rule, including a detailed summary of the effect of each provision of the rule with citation to the specific statute which empowers the agency to enact such provision;

(8) All public comments for each proposed rule. An agency may consolidate substantially similar comments in the interest of efficiency;

(9) All written responses by the agency to the substance of any public comments received, including whether the agency chose to modify the proposed rule in response to the comments or, if no changes were made, the rationale for declining to incorporate or make any suggested changes responding to the public comments. An agency may consolidate substantially similar responses in the interest of efficiency: *Provided*, That the agency's response shall address each issue and concern expressed by all comments received; and

~~(6) any~~ (10) Any other information which the committee may request or which may be required by law. If the agency is an agency, board or commission which is not administered by an executive department as provided for in article two, chapter five-f of this code, the agency shall submit the final agency-approved rule as required by this subsection.

(b) The committee shall review each proposed legislative rule and, in its discretion, may hold public hearings thereon. Such review shall include, but not be limited to, a determination of:

(1) Whether the agency has specific statutory authority to propose the rule and has not exceeded the scope of its statutory authority in approving the proposed legislative rule;

(2) Whether the rule is needed;

~~(2)~~ (3) Whether the proposed legislative rule is in conformity with the legislative intent of the statute which the rule is intended to implement, extend, apply, interpret or make specific;

~~(3)~~ (4) Whether the proposed legislative rule overlaps, duplicates or conflicts with any other provision of this code, or with any other rule adopted by the same or a different agency, with federal statutes and rules, or with local laws and rules;

(5) Whether federal funding will be impacted by its expiration and explanation as to such;

~~(4)~~ (6) Whether the proposed legislative rule is necessary to fully accomplish the objectives of the statute under which the rule was proposed for promulgation;

~~(5)~~ (7) Whether the proposed legislative rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;

~~(6)~~ (8) Whether the proposed legislative rule could be made less complex or more readily understandable by the general public; and

~~(7)~~ (9) Whether the proposed legislative rule was proposed for promulgation in compliance with the requirements of this article and with any requirements imposed by any other provision of this code.

(c) After reviewing the legislative rule, the committee shall recommend that the Legislature:

(1) Authorize the promulgation of the legislative rule; ~~or~~

(2) Authorize the promulgation of part of the legislative rule; ~~or~~

(3) Authorize the promulgation of the legislative rule with certain amendments; ~~or~~

(4) Recommend that the proposed rule be withdrawn.; ~~or~~

(5) Reject the proposed rule.

The committee shall file notice of its action in the State Register and with the agency proposing the rule: *Provided*, That when the

committee makes the recommendations of subdivision (2), (3), ~~or~~ (4) or (5) of this subsection, the notice shall contain a statement of the reasons for such recommendation.

(d) When the committee recommends that a rule be authorized, in whole or in part, by the Legislature, the committee shall instruct its staff or the office of Legislative Services to draft a bill authorizing the promulgation of all or part of the legislative rule and incorporating such amendments as the committee desires. If the committee recommends that the rule not be authorized, it shall include in its report a draft of a bill authorizing promulgation of the rule together with a recommendation. Any draft bill prepared under this section shall contain a legislative finding that the rule is within the legislative intent of the statute which the rule is intended to implement, extend, apply or interpret and shall be available for any member of the Legislature to introduce to the Legislature.

§29A-3-19. Expiration provision in rules.

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include an expiration provision terminating the rule after five years: *Provided*, That the rule may be renewed for additional terms of five years or less by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided*, *however*, That if a different expiration or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection does not apply to rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to section fifteen of this article.

(b) Any legislative rule existing as of April 1, 2016, that is thereafter modified pursuant to this article shall include an expiration provision as part of the modification setting forth a termination date for the rule: *Provided*, That the rule may be renewed for additional terms of years by the Legislature pursuant to the rule-making procedures and

authority in this article: *Provided, however,* That if a different expiration or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further,* That this subsection does not apply to rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to section fifteen of this article.

(c) The existence of an expiration provision terminating a rule does not preclude the repeal of such rule by the Legislature prior to the expiration of the expiration provision.

(d) As part of its rule review under this article, the Legislative Rule-Making Review Committee is authorized to establish a procedure for timely review of all rules prior to expiration, including those rules promulgated by agencies that have affirmatively sought renewal prior to expiration. The procedure may include a requirement that the agency show cause as to why the expiring rule is required and necessary to be continued for another term of years.

(f) The Secretary of State shall provide notice to the promulgating agency at least eighteen months prior to every rule's expiration date.

§29A-3-20. Executive review of agency rules, guidelines, policies and recommendations.

(a) All executive agencies with rule-making authority shall:

(1) Review and evaluate all state rules, guidelines, policies and recommendations under their jurisdiction that have similar federal rules, guidelines, policies and recommendations;

(2) Determine whether the state rules, guidelines, policies and recommendations are more stringent than federal counterparts;

(3) Provide for a comment period for all rules, guidelines, policies and recommendations; and

(4) Submit a report to the Joint Committee on Government and Finance and the Legislative Rule-Making Review Committee on or before November 1, 2017, which shall include:

(A) A description of the state rules, guidelines, policies and recommendations that are more stringent than federal counterparts; and

(B) Comments received from the comment period provided for in subdivision (3) of this subsection.

(b) Within four years of the enactment of this law, each executive agency with rule-making authority shall review all of its rules and determine whether the rules should be continued without change, modified or repealed. On or before July 1, 2020, each agency submit a report to the Legislative Rule-Making Review Committee which includes the following information for each rule under the agency's jurisdiction:

(1) A description of the rule;

(2) A determination of whether the rule should continue without change, modified or repealed; and

(3) The reasoning for said determination.

ARTICLE 3A. HIGHER EDUCATION RULEMAKING.

§29A-3A-20. Expiration provision in rules.

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include an expiration provision terminating the rule after five years: *Provided*, That the rule may be renewed for additional terms of five years or less by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different expiration or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this

subsection does not apply to emergency rules promulgated pursuant to section sixteen of this article.

(b) Any legislative rule existing as of April 1, 2016, that is thereafter modified pursuant to this article shall include an expiration provision as part of the modification setting forth a termination date for the rule: *Provided*, That the rule may be renewed for additional terms of years by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different expiration or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection does not apply to emergency rules promulgated pursuant to section sixteen of this article.

(c) The existence of an expiration provision terminating a rule does not preclude the repeal of such rule by the Legislature prior to the expiration of the expiration provision.

(d) As part of its rule review under this article, the Legislative Oversight Commission on Education Accountability is authorized to establish a procedure for timely review of a rule prior to its expiration if the board has affirmatively sought renewal prior to expiration. The procedure may include a requirement that the board show cause as to why the expiring rule is required and necessary to be continued for another term of years.

(e) The Secretary of State shall provide notice to the board at least eighteen months prior to every rule's expiration date."

The bill was then ordered to third reading.

Com. Sub. for S. B. 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage; on second reading, coming up in regular order, was read a second time.

An amendment to the bill, recommended by Delegate Manchin, was reported by the Clerk.

Whereupon,

Delegate Manchin asked and obtained unanimous consent to withdraw the amendment and offer a reformed amendment, on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof, the following:

“That §23-2-1 of the Code of West Virginia, 1931 as amended, be amended and reenacted, to read as follows:

**ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO
CHAPTER; EXTRATERRITORIAL
COVERAGE.**

**§23-2-1. Employers subject to chapter; elections not to provide
certain coverages; notices; filing of business
registration certificates.**

(a) The State of West Virginia and all governmental agencies or departments created by it, including county boards of education, political subdivisions of the state, any volunteer fire department or company and other emergency service organizations as defined by article five, chapter fifteen of this code, and all persons, firms, associations and corporations regularly employing another person or persons for the purpose of carrying on any form of industry, service or business in this state, are employers within the meaning of this chapter and are required to subscribe to and pay premium taxes into the Workers' Compensation Fund for the protection of their employees and are subject to all requirements of this chapter and all rules prescribed by the Workers' Compensation Commission with reference to rate, classification and premium payment: *Provided*, That rates will be adjusted by the commission to reflect the demand on the compensation fund by the covered employer.

(b) The following employers are not required to subscribe to the fund, but may elect to do so:

(1) Employers of employees in domestic services;

(2) Employers of five or fewer full-time employees in agricultural service;

(3) Employers of employees while the employees are employed without the state except in cases of temporary employment without the state;

(4) Casual employers. An employer is a casual employer when the number of his or her employees does not exceed three and the period of employment is temporary, intermittent and sporadic in nature and does not exceed ten calendar days in any calendar quarter;

(5) Churches;

(6) Employers engaged in organized professional sports activities, including employers of trainers and jockeys engaged in thoroughbred horse racing; or

(7) Any volunteer rescue squad or volunteer police auxiliary unit organized under the auspices of a county commission, municipality or other government entity or political subdivision; volunteer organizations created or sponsored by government entities, political subdivisions; or area or regional emergency medical services boards of directors in furtherance of the purposes of the Emergency Medical Services Act of article four-c, chapter sixteen of this code: *Provided*, That if any of the employers described in this subdivision have paid employees, to the extent of those paid employees, the employer shall subscribe to and pay premium taxes into the Workers' Compensation Fund based upon the gross wages of the paid employees but with regard to the volunteers, the coverage remains optional;

(8) Taxicab drivers for a taxicab company operating under article two, chapter twenty-four of this code: *Provided*, That such designation is not inconsistent with the United States Internal Revenue Service requirements for persons acting as independent contractors;

(8) (9) Any employer whose employees are eligible to receive benefits under the federal Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §901, *et. seq.*, but only for those employees eligible for those benefits.

(c) Notwithstanding any other provision of this chapter to the contrary, whenever there are churches in a circuit which employ one individual clergyman and the payments to the clergyman from the churches constitute his or her full salary, such circuit or group of churches may elect to be considered a single employer for the purpose of premium payment into the Workers' Compensation Fund.

(d) Employers who are not required to subscribe to the Workers' Compensation Fund may voluntarily choose to subscribe to and pay premiums into the fund for the protection of their employees and in that case are subject to all requirements of this chapter and all rules and regulations prescribed by the commission with reference to rates, classifications and premium payments and shall afford to them the protection of this chapter, including section six of this article, but the failure of the employers to choose to subscribe to and to pay premiums into the fund shall not impose any liability upon them other than any liability that would exist notwithstanding the provisions of this chapter.

(e) Any foreign corporation employer whose employment in this state is to be for a definite or limited period which could not be considered 'regularly employing' within the meaning of this section may choose to pay into the Workers' Compensation Fund the premiums provided for in this section, and at the time of making application to the Workers' Compensation Commission, the employer shall furnish a statement under oath showing the probable length of time the employment will continue in this state, the character of the work, an estimate of the monthly payroll and any other information which may be required by the commission. At the time of making application the employer shall deposit with the commission to the credit of the Workers' Compensation Fund the amount required by section five of this article. That amount shall be returned to the

employer if the employer's application is rejected by the commission. Upon notice to the employer of the acceptance of his or her application by the commission, he or she is an employer within the meaning of this chapter and subject to all of its provisions.

(f) Any foreign corporation employer choosing to comply with the provisions of this chapter and to receive the benefits under this chapter shall, at the time of making application to the commission in addition to other requirements of this chapter, furnish the commission with a certificate from the Secretary of State, where the certificate is necessary, showing that it has complied with all the requirements necessary to enable it legally to do business in this state and no application of a foreign corporation employer shall be accepted by the commission until the certificate is filed.

(g) The following employers may elect not to provide coverage to certain of their employees under the provisions of this chapter:

(1) Any political subdivision of the state including county commissions and municipalities, boards of education, or emergency services organizations organized under the auspices of a county commission may elect not to provide coverage to any elected official. The election not to provide coverage does not apply to individuals in appointed positions or to any other employees of the political subdivision;

(2) If an employer is a partnership, sole proprietorship, association or corporation, the employer may elect not to include as an 'employee' within this chapter, any member of the partnership, the owner of the sole proprietorship or any corporate officer or member of the board of directors of the association or corporation. The officers of a corporation or an association shall consist of a president, a vice president, a secretary and a treasurer, each of whom is elected by the board of directors at the time and in the manner prescribed by the bylaws. Other officers and assistant officers that are considered necessary may be elected or appointed by the board of directors or

chosen in any other manner prescribed by the bylaws and, if elected, appointed or chosen, the employer may elect not to include the officer or assistant officer as an 'employee' within the meaning of this chapter: *Provided*, That except for those persons who are members of the board of directors or who are the corporation's or association's president, vice president, secretary and treasurer and who may be excluded by reason of their positions from the benefits of this chapter even though their duties, responsibilities, activities or actions may have a dual capacity of work which is ordinarily performed by an officer and also of work which is ordinarily performed by a worker, an administrator or an employee who is not an officer, no other officer or assistant officer who is elected or appointed shall be excluded by election from coverage or be denied the benefits of this chapter merely because he or she is an officer or assistant officer if, as a matter of fact:

(A) He or she is engaged in a dual capacity of having the duties and responsibilities for work ordinarily performed by an officer and also having duties and work ordinarily performed by a worker, administrator or employee who is not an officer;

(B) He or she is engaged ordinarily in performing the duties of a worker, an administrator or an employee who is not an officer and receives pay for performing the duties in the capacity of an employee; or

(C) He or she is engaged in an employment palpably separate and distinct from his or her official duties as an officer of the association or corporation;

(3) If an employer is a limited liability company, the employer may elect not to include as an 'employee' within this chapter a total of no more than four persons, each of whom are acting in the capacity of manager, officer or member of the company.

(h) In the event of election under subsection (g) of this section, the employer shall serve upon the commission written notice naming the

positions not to be covered and shall not include the ‘employee’s’ remuneration for premium purposes in all future payroll reports, and the partner, proprietor or corporate or executive officer is not considered an employee within the meaning of this chapter after the notice has been served. Notwithstanding the provisions of subsection (g), section five of this article, if an employer is delinquent or in default or has not subscribed to the Fund even though it is obligated to do so under the provisions of this article, any partner, proprietor or corporate or executive officer shall not be covered and shall not receive the benefits of this chapter.

(i) ‘Regularly employing’ or ‘regular employment’ means employment by an employer which is not a casual employer under this section.

(j) Upon the termination of the commission, the criteria governing which employer shall or may subscribe to the Workers’ Compensation Commission shall also govern which employers shall or may purchase Workers’ Compensation insurance under article two-c of this chapter.”

Delegate Pushkin requested to be excused from voting on Com. Sub. for S. B. 621 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The amendment was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 686, Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, after the enacting clause, by

striking the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-1-3qq; and that said code be amended by adding thereto a new section, designated §8-12-5g, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONER AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3qq. Authorizing county commissions to hold motor vehicle racing events on public roads, municipal streets or airports.

(a) In addition to all other powers and duties not conferred by law upon county commissions, such commissions are empowered to organize and hold motor vehicle racing events on roads and airports in counties in this state; to require a permit; to provide for the issuance of a permit; to prescribe certain requirements for obtaining a permit; to provide for certain powers and duties of the permit holder and the county in relation to a racing event; and to declare that such a racing event is not a nuisance or subject to speed restrictions.

(b) As used in this section:

(1) ‘Person’ shall mean an individual, sole proprietorship, partnership, corporation or other legal entity;

(2) ‘Public road’ shall mean a road or open country highway under the control of the county court or the governing body of a municipality which is not classified in the state road system;

(3) ‘Municipal street’ shall mean an urban or suburban street under the control of the governing body of a municipality which is not classified in the state road system;

(4) 'Motor vehicle' shall mean and include any mechanical device for the conveyance, drawing or other transportation of persons or property upon the public roads, whether operated on wheels or runners or by other means, except those propelled or 16 drawn by human power or those used exclusively upon rails; and

(5) 'Racing event' shall mean a motor vehicle race which is sanctioned by a nationally or internationally recognized racing organization and includes preparations, practices and qualifications for the race.

(c) A county commission may provide for the issuance of a permit allowing the person to whom the permit is issued to conduct a racing event on a public road or municipal street or at airports located within its jurisdiction. A person shall not conduct a racing event unless the person has been issued a permit under this section.

(d) The county commission may charge a reasonable fee for the issuance of a permit under this section.

(e) Before a county commission issues a racing event permit under subsections (c) and (d) of this section, the county commission shall determine all of the following:

(1) That the person applying for the permit has adequate insurance to pay any damages incurred because of loss or injury to any person or property;

(2) That adequate security, emergency services and necessary facilities will be provided during the racing event; and

(3) That the person applying for the permit has demonstrated the ability to protect the health, safety and welfare of the citizens of the county, the race participants and those attending the racing event.

(f) For purposes of a racing event held under this section, the county commission may do all of the following:

(1) Provide for the temporary closing or obstructing of roads, streets, alleys, sidewalks and airport runways;

(2) Reroute pedestrian and vehicular traffic; and

(3) Waive ordinances and traffic regulations including speed limits and traffic control devices.

(g) No less than sixty days prior to a scheduled racing event, a county commission shall provide written notice to the West Virginia Department of Transportation — Traffic Engineering Division of any racing event permit issued under this section. The written notice shall identify the following:

(1) The time, date and location of the event;

(2) The nationally or internationally recognized racing organization sponsoring the event;

(3) A Road Closure Plan that specifies the public roads, municipal streets, alleys, sidewalks and airport runways that will be temporarily closed or obstructed during the event;

(4) A Traffic Control Plan that specifies the on-site traffic controls and detour route to be used during the event; and

(5) The names and phone numbers of emergency and law enforcement contacts overseeing the event.

(h) A racing event held under this section and any action taken under subsections (e) and (f) of this section shall be considered as being for public purposes, including the promotion of commerce and tourism for the benefit of the citizens of the county and state.

(i) A county that issues a permit under this section shall not be liable for any damages that may result from the racing event because of loss or injury to any person or property. After a permit is issued, the

state shall not be liable for any damages that may result from the racing event because of loss or injury to any person or property.

(j) The provisions related to road obstructions and public nuisance set forth in section one, article sixteen, chapter seventeen of this code do not apply to an authorized racing event held under this section.

(k) The provisions of article six, chapter seventeen-c of this code shall not apply to an authorized racing event held under this section.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES, MUNICIPAL OFFICES AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-5g. Authorizing municipalities to hold motor vehicle racing events on public roads, municipal streets or runways.

(a) In addition to all other powers and duties not conferred by law upon municipalities, such municipalities are empowered to organize and hold motor vehicle racing events on roads and airports in this state under their jurisdiction; to require a permit; to provide for the issuance of a permit; to prescribe certain requirements for obtaining a permit; to provide for certain powers and duties of the permit holder and the municipality in relation to a racing event; and to declare that such a racing event is not a nuisance or prohibited street racing.

(b) As used in this section:

(1) 'Person' shall mean an individual, sole proprietorship, partnership, corporation or other legal entity;

(2) 'Public road' shall mean a road or open country highway under the control of the county court or the governing body of a municipality which is not classified in the state road system;

(3) 'Municipal street' shall mean an urban or suburban street under the control of the governing body of a municipality which is not classified in the state road system;

(4) 'Motor vehicle' shall mean and include any mechanical device for the conveyance, drawing or other transportation of persons or property upon the public roads, whether operated on wheels or runners or by other means, except those propelled or drawn by human power or those used exclusively upon rails; and

(5) 'Racing event' shall mean a motor vehicle race which is sanctioned by a nationally or internationally recognized racing organization and includes preparations, practices and qualifications for the race.

(c) A municipality may provide for the issuance of a permit allowing the person to whom the permit is issued to conduct a racing event on a public road, municipal street or airport located within its jurisdiction. A person shall not conduct a racing event unless the person has been issued a permit under this section.

(d) The municipality may charge a reasonable fee for the issuance of a permit under this section.

(e) Before a municipality issues a racing event permit under subsections (c) and (d) of this section, the municipality shall determine all of the following:

(1) That the person applying for the permit has adequate insurance to pay any damages incurred because of loss or injury to any person or property;

(2) That adequate security, emergency services and necessary facilities will be provided during the racing event; and

(3) That the person applying for the permit has demonstrated the ability to protect the health, safety and welfare of the citizens of the municipality, the race participants and those attending the racing event.

(f) For purposes of a racing event held under this section, the municipality may do all of the following:

(1) Provide for the temporary closing or obstructing of roads, streets, alleys, sidewalks and airport runways;

(2) Reroute pedestrian and vehicular traffic; and

(3) Waive ordinances and traffic regulations including speed limits and traffic control devices.

(g) No less than sixty days prior to a scheduled racing event, a municipality shall provide written notice to the West Virginia Department of Transportation - Traffic Engineering Division of any racing event permit issued under this section. The written notice shall identify the following:

(1) The time, date and location of the event;

(2) The nationally or internationally recognized racing organization sponsoring the event;

(3) A Road Closure Plan that specifies the public roads, municipal streets, alleys, sidewalks and airport runways that will be temporarily closed or obstructed during the event;

(4) A Traffic Control Plan that specifies the on-site traffic controls and detour route to be used during the event; and

(5) The names and phone numbers of emergency and law enforcement contacts overseeing the event.

(h) A racing event held under this section and any action taken under subsections (e) and (f) of this section shall be considered as being for public purposes, including the promotion of commerce and tourism for the benefit of the citizens of the municipality and state.

(i) A municipality that issues a permit under this section shall not be liable for any damages that may result from the racing event because of loss or injury to any person or property. After a permit is issued, the state shall not be liable for any damages that may result from the racing event because of loss or injury to any person or property.

(j) The provisions related to road obstructions and public nuisance set forth in section one, article sixteen, chapter seventeen of this code do not apply to an authorized racing event held under this section.

(k) The provisions of article six, chapter seventeen-c of this code shall not apply to an authorized racing event held under this section.”

On motion of Delegate Folk, the Judiciary Committee amendment was amended on page two, section three-qq, line twenty-four, after the word “section” by changing the period to a colon and adding the following “*Provided*, That the decision to issue a permit for any airport formed pursuant to chapter eight, article twenty-nine of this code, shall be made by the governing body of the Regional Airport Authority.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 702, Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing estate; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §44-8-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. REAL ESTATE OF DECEDENTS.**§44-8-1. Sale, conveyance and management of decedent's real estate; powers of executor and administrator with will annexed.**

Real estate devised to be sold shall, if no person other than the executor be appointed for the purpose, be sold and conveyed by the executor and the proceeds of sale, or the rents and profits of any real estate which the executor is authorized by the will to receive, shall be received by the executor who qualifies, or by his or her successor. If none qualify, or the one qualifying shall die, resign or be removed before the trust is executed or completed, the administrator with the will annexed shall sell or convey the lands so devised to be sold, and receive the proceeds of sale, or the rents and profits aforesaid, as an executor might have done: *Provided, That if the executor has not, within five years of the closing of the estate of the testator, sold any real estate which was devised to be sold, title thereto shall pass to the individuals entitled to receive the proceeds thereof, in such proportions as they are entitled to receive said proceeds, in the absence of any contrary testamentary intent.*

When any will heretofore or hereafter executed gives to the executor named therein the power to sell the testator's real estate, which has not been theretofore specifically devised therein, the executor may sell any such real estate unless otherwise provided in said will. If such will directs the sale of testator's real estate but names no executor, or names an executor and the executor dies, resigns or becomes incapable of acting, and an administrator with the will annexed is appointed, the administrator with the will annexed may sell such real estate as aforesaid.

Nothing in this section shall be deemed or construed so as to invalidate any conveyance made prior to the effective date of the amendments thereto adopted by the Legislature at its regular session held in the year ~~one thousand nine hundred eighty-seven~~ 1987."

The bill was then ordered to third reading.

Messages from the Executive

The Speaker then laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 9, 2016

Veto Message

The Honorable Tim Armstead
Speaker, West Virginia House of Delegates
Room 228M, Building 1
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill 10

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 10.

I am advised this bill is overbroad and unduly burdens a woman's fundamental constitutional right to privacy. See *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 879 (1992) (holding a state "may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability"). Among the bill's prohibitions is a leading pre-viability medical procedure (the "dilation & evacuation" method) that, for reasons of patient safety, is preferred by physicians. The Supreme Court of the United States and the United States District Court for the Southern

District of West Virginia previously struck down similarly overbroad laws that unduly burdened a woman's right to choose this procedure. See *Stenberg v. Carhart*, 530 U.S. 914 (2000); *Daniel v. Underwood*, 102 F.Supp.2d 680 (S. D. W. Va. 2000) (declaring sections of WV's Women's Access to Health Care Act to be unconstitutional; ban at issue encompassed the common "dilation & evacuation" method and thus unduly burdened a woman's constitutional right of privacy). In these circumstances, a veto is appropriate.

Sincerely,

Earl Ray Tomblin,
Governor.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had again passed, without amendment, notwithstanding the objections of the Governor, and requested the concurrence of the House of Delegates in the passage, of

Enr. Com. Sub. for S. B. 10, Creating Unborn Child Protection from Dismemberment Abortion Act.

On motion of Delegate Cowles, the House of Delegates proceeded to consider the bill (Enr. Com. Sub. for S. B. 10), notwithstanding the objections of the Governor.

The Speaker propounded, "Shall the bill pass, notwithstanding the objections of the Governor?"

On this question, the yeas and nays were taken (**Roll No. 480**), and there were--yeas 85, nays 15, absent and not voting none, with the yeas and nays being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Azinger, Bates, Blackwell, Blair, Boggs, Border, Butler, Byrd, Cadle, Campbell,

Canterbury, Cooper, Cowles, Deem, Duke, Eldridge, Ellington, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Ferro, Flanigan, Folk, Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Hartman, Hicks, Hill, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, Marcum, McCuskey, McGeehan, Miley, Miller, Moffatt, Moye, E. Nelson, J. Nelson, O'Neal, Overington, Perry, Phillips, Reynolds, Rodighiero, Rohrbach, Romine, Rowan, Shaffer, Shott, P. Smith, R. Smith, Sobonya, Sponaugle, Stansbury, Statler, Storch, Summers, Trecost, Upson, Wagner, Walters, Waxman, Weld, Westfall, B. White, P. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Caputo, Fleischauer, Fluharty, Guthrie, Hornbuckle, Longstreth, Lynch, Manchin, Moore, Morgan, Perdue, Pethtel, Pushkin, Rowe and Skinner.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Enr. Com. Sub. for S. B. 10) passed, notwithstanding the objections of the Governor.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

At 4:00 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

Second Reading

-Continued-

Com. Sub. for H. B. 4017, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, was read a second time.

Delegates Reynolds, Bates, Blackwell, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks,

Hornbuckle, Longstreth, Manchin, Marcum, Miley, Moore, Morgan, Perdue, Phillips, Pushkin, Rodighiero, Rowe, Shaffer, Skinner, Sponaugle and P. White moved to amend H.B. 4017 on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof, the following:

“TITLE I — GENERAL PROVISIONS.

1 **Section 1. General policy.** — The purpose of this bill is to
2 appropriate money necessary for the economical and efficient
3 discharge of the duties and responsibilities of the state and its
4 agencies during the fiscal year 2017.

1 **Sec. 2. Definitions.** —

2 For the purpose of this bill:

3 “Governor” shall mean the Governor of the State of West
4 Virginia.

5 “Code” shall mean the Code of West Virginia, one thousand
6 nine hundred thirty-one, as amended.

7 “Spending unit” shall mean the department, bureau, division,
8 office, board, commission, agency or institution to which an
9 appropriation is made.

10 The “fiscal year 2017” shall mean the period from July 1,
11 2016, through June 30, 2017.

12 “General revenue fund” shall mean the general operating
13 fund of the state and includes all moneys received or collected
14 by the state except as provided in W.Va. Code §12-2-2 or as
15 otherwise provided.

16 “Special revenue funds” shall mean specific revenue sources
17 which by legislative enactments are not required to be accounted
18 for as general revenue, including federal funds.

19 “From collections” shall mean that part of the total
20 appropriation which must be collected by the spending unit to be
21 available for expenditure. If the authorized amount of collections
22 is not collected, the total appropriation for the spending unit
23 shall be reduced automatically by the amount of the deficiency
24 in the collections. If the amount collected exceeds the amount
25 designated “from collections,” the excess shall be set aside in a
26 special surplus fund and may be expended for the purpose of the
27 spending unit as provided by Article 2, Chapter 11B of the Code.

1 **Sec. 3. Classification of appropriations.** — An
2 appropriation for:

3 “Personal services” shall mean salaries, wages and other
4 compensation paid to full-time, part-time and temporary
5 employees of the spending unit but shall not include fees or
6 contractual payments paid to consultants or to independent
7 contractors engaged by the spending unit. “Personal services”
8 shall include “annual increment” for “eligible employees” and
9 shall be disbursed only in accordance with Article 5, Chapter 5
10 of the Code.

11 Unless otherwise specified, appropriations for “personal
12 services” shall include salaries of heads of spending units.

13 “Employee benefits” shall mean social security matching,
14 workers’ compensation, unemployment compensation, pension
15 and retirement contributions, public employees insurance
16 matching, personnel fees or any other benefit normally paid by
17 the employer as a direct cost of employment. Should the
18 appropriation be insufficient to cover such costs, the remainder
19 of such cost shall be paid by each spending unit from its
20 “unclassified” appropriation, or its “current expenses”
21 appropriation or other appropriate appropriation. Each spending
22 unit is hereby authorized and required to make such payments in
23 accordance with the provisions of Article 2, Chapter 11B of the
24 Code.

25 Each spending unit shall be responsible for all contributions,
26 payments or other costs related to coverage and claims of its
27 employees for unemployment compensation and workers
28 compensation. Such expenditures shall be considered an
29 employee benefit.

30 “BRIM Premiums” shall mean the amount charged as
31 consideration for insurance protection and includes the present
32 value of projected losses and administrative expenses. Premiums
33 are assessed for coverages, as defined in the applicable policies,
34 for claims arising from, inter alia, general liability, wrongful
35 acts, property, professional liability and automobile exposures.

36 Should the appropriation for “BRIM Premium” be
37 insufficient to cover such cost, the remainder of such costs shall
38 be paid by each spending unit from its “unclassified”
39 appropriation, its “current expenses” appropriation or any other
40 appropriate appropriation to the Board of Risk and Insurance
41 Management. Each spending unit is hereby authorized and
42 required to make such payments. If there is no appropriation for
43 “BRIM Premium” such costs shall be paid by each spending unit
44 from its “current expenses” appropriation, “unclassified”
45 appropriation or other appropriate appropriation.

46 West Virginia Council for Community and Technical
47 College Education and Higher Education Policy Commission
48 entities operating with special revenue funds and/or federal
49 funds shall pay their proportionate share of the Board of Risk
50 and Insurance Management total insurance premium cost for
51 their respective institutions.

52 “Current expenses” shall mean operating costs other than
53 personal services and shall not include equipment, repairs and
54 alterations, buildings or lands. Each spending unit shall be
55 responsible for and charged monthly for all postage meter
56 service and shall reimburse the appropriate revolving fund

57 monthly for all such amounts. Such expenditures shall be
58 considered a current expense.

59 “Equipment” shall mean equipment items which have an
60 appreciable and calculable period of usefulness in excess of one
61 year.

62 “Repairs and alterations” shall mean routine maintenance
63 and repairs to structures and minor improvements to property
64 which do not increase the capital assets.

65 “Buildings” shall include new construction and major
66 alteration of existing structures and the improvement of lands
67 and shall include shelter, support, storage, protection or the
68 improvement of a natural condition.

69 “Lands” shall mean the purchase of real property or interest
70 in real property.

71 “Capital outlay” shall mean and include buildings, lands or
72 buildings and lands, with such category or item of appropriation
73 to remain in effect as provided by W.Va. Code §12-3-12.

74 From appropriations made to the spending units of state
75 government, upon approval of the Governor there may be
76 transferred to a special account an amount sufficient to match
77 federal funds under any federal act.

78 Appropriations classified in any of the above categories shall
79 be expended only for the purposes as defined above and only for
80 the spending units herein designated: *Provided*, That the
81 secretary of each department shall have the authority to transfer
82 within the department those general revenue funds appropriated
83 to the various agencies of the department: *Provided, however*,
84 That no more than five percent of the general revenue funds
85 appropriated to any one agency or board may be transferred to
86 other agencies or boards within the department: and no funds

87 may be transferred to a “personal services and employee
88 benefits” appropriation unless the source funds are also wholly
89 from a “personal services and employee benefits” line, or unless
90 the source funds are from another appropriation that has
91 exclusively funded employment expenses for at least twelve
92 consecutive months prior to the time of transfer and the
93 position(s) supported by the transferred funds are also
94 permanently transferred to the receiving agency or board within
95 the department: Provided further, That the secretary of each
96 department and the director, commissioner, executive secretary,
97 superintendent, chairman or any other agency head not governed
98 by a departmental secretary as established by Chapter 5F of the
99 Code shall have the authority to transfer funds appropriated to
100 “personal services and employee benefits,” “current expenses,”
101 “repairs and alterations,” “equipment,” “other assets,” “land,”
102 and “buildings” to other appropriations within the same account
103 and no funds from other appropriations shall be transferred to the
104 “personal services and employee benefits” or the “unclassified”
105 appropriation: And provided further, That no authority exists
106 hereunder to transfer funds into appropriations to which no funds
107 are legislatively appropriated: And provided further, That if the
108 Legislature by subsequent enactment consolidates agencies,
109 boards or functions, the secretary or other appropriate agency
110 head may transfer the funds formerly appropriated to such
111 agency, board or function in order to implement such
112 consolidation. No funds may be transferred from a Special
113 Revenue Account, dedicated account, capital expenditure
114 account or any other account or fund specifically exempted by
115 the Legislature from transfer, except that the use of the
116 appropriations from the State Road Fund for the office of the
117 Secretary of the Department of Transportation is not a use other
118 than the purpose for which such funds were dedicated and is
119 permitted.

120 Appropriations otherwise classified shall be expended only
121 where the distribution of expenditures for different purposes

122 cannot well be determined in advance or it is necessary or
123 desirable to permit the spending unit the freedom to spend an
124 appropriation for more than one of the above classifications.

1 **Sec. 4. Method of expenditure.** — Money appropriated by
2 this bill, unless otherwise specifically directed, shall be
3 appropriated and expended according to the provisions of Article
4 3, Chapter 12 of the Code or according to any law detailing a
5 procedure specifically limiting that article.

1 **Sec. 5. Maximum expenditures.** — No authority or
2 requirement of law shall be interpreted as requiring or permitting
3 an expenditure in excess of the appropriations set out in this bill.

TITLE II — APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1 **Section 1. Appropriations from general revenue.** — From
 2 the State Fund, General Revenue, there are hereby appropriated
 3 conditionally upon the fulfillment of the provisions set forth in
 4 Article 2, Chapter 11B the following amounts, as itemized, for
 5 expenditure during the fiscal year 2017.

LEGISLATIVE

I - Senate

Fund 0165 FY 2017 Org 2100

	Appro- pria- tion	General Revenue Fund
1 Compensation of Members (R). 00300	\$	1,010,000
2 Compensation and Per Diem of		
3 Officers and Employees (R). 00500		4,011,332
4 Employee Benefits (R).. 01000		0
5 Current Expenses and Contingent		
6 Fund (R). 02100		100
7 Repairs and Alterations (R).. 06400		100
8 Unclassified. 09900		100
9 Computer Supplies (R). 10100		100
10 Computer Systems (R).. 10200		100
11 Printing Blue Book (R). 10300		100
12 Expenses of Members (R).. 39900		100
13 BRIM Premium (R).. 91300		<u>100</u>
14 Total..	\$	<u>5,022,032</u>

15 The appropriations for the Senate for the fiscal year 2016 are
 16 to remain in full force and effect and are hereby reappropriated
 17 to June 30, 2017, with the exception of fund 0165, fiscal year
 18 2016, appropriation 00300 (\$1,010,000), fund 0165, fiscal year
 19 2016, appropriation 00500 (\$835,518), fund 0165, fiscal year

20 2016, appropriation 06400 (\$50,000), fund 0165, fiscal year
21 2016, appropriation 10100 (\$20,000), fund 0165, fiscal year
22 2016, appropriation 10200 (\$60,000), fund 0165, fiscal year
23 2016, appropriation 10300 (\$125,000) fund 0165, fiscal year
24 2016, appropriation 91300 (\$29,482), fund 0165, fiscal year
25 2016, appropriation 39900 (\$370,000), fund 0165, fiscal year
26 2012, appropriation 00500 (\$2,500,000) and fund 0165, fiscal
27 year 2012, appropriation 02100 (\$2,500,000) which shall expire
28 on June 30, 2016. Any balances so reappropriated may be
29 transferred and credited to the fiscal year 2016 accounts.

30 Upon the written request of the Clerk of the Senate, the
31 Auditor shall transfer amounts between items of the total
32 appropriation in order to protect or increase the efficiency of the
33 service.

34 The Clerk of the Senate, with the approval of the President,
35 is authorized to draw his or her requisitions upon the Auditor,
36 payable out of the Current Expenses and Contingent Fund of the
37 Senate, for any bills for supplies and services that may have been
38 incurred by the Senate and not included in the appropriation bill,
39 for supplies and services incurred in preparation for the opening,
40 the conduct of the business and after adjournment of any regular
41 or extraordinary session, and for the necessary operation of the
42 Senate offices, the requisitions for which are to be accompanied
43 by bills to be filed with the Auditor.

44 The Clerk of the Senate, with the approval of the President,
45 or the President of the Senate shall have authority to employ
46 such staff personnel during any session of the Legislature as
47 shall be needed in addition to staff personnel authorized by the
48 Senate resolution adopted during any such session. The Clerk of
49 the Senate, with the approval of the President, or the President
50 of the Senate shall have authority to employ such staff personnel
51 between sessions of the Legislature as shall be needed, the
52 compensation of all staff personnel during and between sessions

53 of the Legislature, notwithstanding any such Senate resolution,
 54 to be fixed by the President of the Senate. The Clerk is hereby
 55 authorized to draw his or her requisitions upon the Auditor for
 56 the payment of all such staff personnel for such services, payable
 57 out of the appropriation for Compensation and Per Diem of
 58 Officers and Employees or Current Expenses and Contingent
 59 Fund of the Senate.

60 For duties imposed by law and by the Senate, the Clerk of
 61 the Senate shall be paid a monthly salary as provided by the
 62 Senate resolution, unless increased between sessions under the
 63 authority of the President, payable out of the appropriation for
 64 Compensation and Per Diem of Officers and Employees or
 65 Current Expenses and Contingent Fund of the Senate.

66 The distribution of the blue book shall be by the office of the
 67 Clerk of the Senate and shall include 75 copies for each member
 68 of the Legislature and two copies for each classified and
 69 approved high school and junior high or middle school and one
 70 copy for each elementary school within the state.

71 Included in the above appropriation for Senate (fund 0165,
 72 appropriation 02100), an amount not less than \$5,000 is to be
 73 used for the West Virginia Academy of Family Physicians - Doc
 74 of the Day Program.

2 - House of Delegates

Fund 0170 FY 2017 Org 2200

1	Compensation of Members (R).	00300	\$	3,000,000
2	Compensation and Per Diem of Officers			
3	and Employees (R).	00500		575,000
4	Current Expenses and Contingent			
5	Fund (R).	02100		3,929,031
6	Expenses of Members (R).	39900		1,350,000

7	BRIM Premium (R).....	91300		<u>50,000</u>
8	Total.....		\$	8,904,031

9 The appropriations for the House of Delegates for the fiscal
10 year 2016 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2017, with the exception of fund
12 0170, fiscal year 2016, appropriation 00300 (\$175,000), fund
13 0170, fiscal year 2016, appropriation 00500 (\$71,161), and fund
14 0170, fiscal year 2016, appropriation 59900 (\$110,000) which
15 shall expire on June 30, 2016. Any balances so reappropriated
16 may be transferred and credited to the fiscal year 2016 accounts.

17 Upon the written request of the Clerk of the House of
18 Delegates, the Auditor shall transfer amounts between items of
19 the total appropriation in order to protect or increase the
20 efficiency of the service.

21 The Clerk of the House of Delegates, with the approval of
22 the Speaker, is authorized to draw his or her requisitions upon
23 the Auditor, payable out of the Current Expenses and Contingent
24 Fund of the House of Delegates, for any bills for supplies and
25 services that may have been incurred by the House of Delegates
26 and not included in the appropriation bill, for bills for services
27 and supplies incurred in preparation for the opening of the
28 session and after adjournment, and for the necessary operation
29 of the House of Delegates' offices, the requisitions for which are
30 to be accompanied by bills to be filed with the Auditor.

31 The Speaker of the House of Delegates, upon approval of the
32 House committee on rules, shall have authority to employ such
33 staff personnel during and between sessions of the Legislature as
34 shall be needed, in addition to personnel designated in the House
35 resolution, and the compensation of all personnel shall be as
36 fixed in such House resolution for the session, or fixed by the
37 Speaker, with the approval of the House committee on rules,
38 during and between sessions of the Legislature, notwithstanding
39 such House resolution. The Clerk of the House of Delegates is

40 hereby authorized to draw requisitions upon the Auditor for such
 41 services, payable out of the appropriation for the Compensation
 42 and Per Diem of Officers and Employees or Current Expenses
 43 and Contingent Fund of the House of Delegates.

44 For duties imposed by law and by the House of Delegates,
 45 including salary allowed by law as keeper of the rolls, the Clerk
 46 of the House of Delegates shall be paid a monthly salary as
 47 provided in the House resolution, unless increased between
 48 sessions under the authority of the Speaker, with the approval of
 49 the House committee on rules, and payable out of the
 50 appropriation for Compensation and Per Diem of Officers and
 51 Employees or Current Expenses and Contingent Fund of the
 52 House of Delegates.

53 Included in the above appropriation for House of Delegates
 54 (fund 0170, appropriation 02100), an amount not less than
 55 \$5,000 is to be used for the West Virginia Academy of Family
 56 Physicians - Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2017 Org 2300

1	Joint Committee on Government and		
2	Finance (R).	10400	\$ 6,758,015
3	Legislative Printing (R).	10500	760,000
4	Legislative Rule-Making Review		
5	Committee (R)	10600	147,250
6	Legislative Computer System (R)..	10700	902,500
7	BRIM Premium (R).	91300	<u>27,692</u>
8	Total.		\$ 8,595,457

9 The appropriations for the joint expenses for the fiscal year
 10 2016 are to remain in full force and effect and are hereby
 11 reappropriated to June 30, 2017, with the exception of fund

12 0175, fiscal year 2016, appropriation 10400 (\$343,818) which
 13 shall expire on June 30, 2016. Any balances reappropriated may
 14 be transferred and credited to the fiscal year 2016 accounts.

15 Upon the written request of the Clerk of the Senate, with the
 16 approval of the President of the Senate, and the Clerk of the
 17 House of Delegates, with the approval of the Speaker of the
 18 House of Delegates, and a copy to the Legislative Auditor, the
 19 Auditor shall transfer amounts between items of the total
 20 appropriation in order to protect or increase the efficiency of the
 21 service.

22 The appropriation for the Tax Reduction and Federal
 23 Funding Increased Compliance (TRAFFIC) (fund 0175,
 24 appropriation 64200) is intended for possible general state tax
 25 reductions or the offsetting of any reductions in federal funding
 26 for state programs.

JUDICIAL

*4 - Supreme Court –
General Judicial*

Fund 0180 FY 2017 Org 2400

1	Personal Services and Employee		
2	Benefits (R).....	00100	\$ 101,924,358
3	Children’s Protection Act (R). . . .	09000	2,900,000
4	Current Expenses (R).....	13000	32,498,862
5	Repairs and Alterations (R).....	06400	736,450
6	Equipment (R).....	07000	1,800,000
7	Judges’ Retirement System (R)....	11000	900,000
8	Buildings (R).....	25800	100,000
9	Other Assets (R).....	69000	500,000
10	BRIM Premium (R).....	91300	<u>400,000</u>
11	Total.....		\$ 141,759,670

12 The appropriations to the Supreme Court of Appeals for the
 13 fiscal years 2015 and 2016 are to remain in full force and effect
 14 and are hereby reappropriated to June 30, 2017. Any balances so
 15 reappropriated may be transferred and credited to the fiscal year
 16 2016 accounts.

17 This fund shall be administered by the Administrative
 18 Director of the Supreme Court of Appeals, who shall draw
 19 requisitions for warrants in payment in the form of payrolls,
 20 making deductions there from as required by law for taxes and
 21 other items.

22 The appropriation for the Judges' Retirement System (fund
 23 0180, appropriation 11000) is to be transferred to the
 24 Consolidated Public Retirement Board, in accordance with the
 25 law relating thereto, upon requisition of the Administrative
 26 Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,143,970
3	Current Expenses (R)..	13000	1,030,192
4	Repairs and Alterations.	06400	2,000
5	National Governors Association. . .	12300	60,700
6	Herbert Henderson Office of		
7	Minority Affairs.	13400	156,726
8	Southern Governors' Association. .	31400	40,000
9	BRIM Premium.	91300	<u>151,851</u>
10	Total.. . . .		\$ 4,585,439

11 Any unexpended balances remaining in the appropriations
 12 for Unclassified (fund 0101, appropriation 09900), Current
 13 Expenses (fund 0101, appropriation 13000), and JOBS Fund
 14 (fund 0101, appropriation 66500) at the close of the fiscal year
 15 2016 are hereby reappropriated for expenditure during the fiscal
 16 year 2017, with the exception of fund 0101, fiscal year 2016,
 17 appropriation 13000 (\$115,266) which shall expire on June 30,
 18 2016.

19 Included in the above appropriation to Personal Services and
 20 Employee Benefits (fund 0101, appropriation 00100), is
 21 \$150,000 for the Salary of the Governor.

22 The above appropriation for Herbert Henderson Office of
 23 Minority Affairs (fund 0101, appropriation 13400) shall be
 24 transferred to the Minority Affairs Fund (fund 1058).

*6 - Governor's Office –
 Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 353,714
3	Current Expenses (R)..	13000	214,166
4	Repairs and Alterations.	06400	5,000
5	Total.		\$ 572,880

6 Any unexpended balance remaining in the appropriation for
 7 Current Expenses (fund 0102, appropriation 13000) at the close
 8 of the fiscal year 2016 is hereby reappropriated for expenditure
 9 during the fiscal year 2017.

10 Appropriations are to be used for current general expenses,
 11 including compensation of employees, household maintenance,

12 cost of official functions and additional household expenses
13 occasioned by such official functions.

*7 - Governor's Office –
Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2017 Org 0100

1 Any unexpended balances remaining in the appropriations
2 for Business and Economic Development Stimulus – Surplus
3 (fund 0105, appropriation 08400), Civil Contingent Fund – Total
4 (fund 0105, appropriation 11400), 2012 Natural Disasters –
5 Surplus (fund 0105, appropriation 13500), Civil Contingent
6 Fund – Total – Surplus (fund 0105, appropriation 23800), Civil
7 Contingent Fund – Surplus (fund 0105, appropriation 26300),
8 Business and Economic Development Stimulus (fund 0105,
9 appropriation 58600), Civil Contingent Fund (fund 0105,
10 appropriation 61400), and Natural Disasters – Surplus (fund
11 0105, appropriation 76400) at the close of the fiscal year 2016
12 are hereby reappropriated for expenditure during the fiscal year
13 2017.

14 From this fund there may be expended, at the discretion of
15 the Governor, an amount not to exceed \$1,000 as West
16 Virginia's contribution to the interstate oil compact commission.

17 The above fund is intended to provide contingency funding
18 for accidental, unanticipated, emergency or unplanned events
19 which may occur during the fiscal year and is not to be expended
20 for the normal day-to-day operations of the Governor's Office.

*8 - Auditor's Office –
General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,045,474
3	Current Expenses (R)..	13000	10,622
4	BRIM Premium.	91300	<u>10,451</u>
5	Total..		\$ 3,066,547

6 Any unexpended balance remaining in the appropriation for
7 Current Expenses (fund 0116, appropriation 13000) at the close
8 of the fiscal year 2016 is hereby reappropriated for expenditure
9 during the fiscal year 2017.

10 Included in the above appropriation to Personal Services and
11 Employee Benefits (fund 0116, appropriation 00100), is \$95,000
12 for the Salary of the Auditor.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,707,357
3	Unclassified.	09900	32,258
4	Current Expenses (R)..	13000	521,710
5	Abandoned Property Program.	11800	158,806
6	Other Assets..	69000	5,000
7	BRIM Premium.	91300	<u>30,809</u>
8	Total..		\$ 3,455,940

9 Any unexpended balances remaining in the appropriations
10 for Current Expenses (fund 0126, appropriation 13000) and
11 Tuition Trust Fund (fund 0126, appropriation 69200) at the close
12 of the fiscal year 2016 are hereby reappropriated for expenditure
13 during the fiscal year 2017, with the exception of fund 0126,
14 fiscal year 2016, appropriation 13000 (\$11,476) and fund 0126,

15 fiscal year 2016, appropriation 69200 (\$73,207) which shall
 16 expire on June 30, 2016.

17 Included in the above appropriation to Personal Services and
 18 Employee Benefits (fund 0126, appropriation 00100), is \$95,000
 19 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2017 Org 1400

1	Personal Services and		
2	Employee Benefits.	00100	\$ 5,858,787
3	Animal Identification Program.	03900	137,743
4	State Farm Museum.	05500	99,500
5	Current Expenses (R).	13000	171,664
6	Repairs and Alterations.	06400	9,037
7	Gypsy Moth Program (R).	11900	1,058,341
8	Huntington Farmers Market.	12800	42,111
9	Black Fly Control.	13700	511,089
10	Donated Foods Program.	36300	50,000
11	Predator Control (R).	47000	200,000
12	Logan Farmers Market.	50100	47,408
13	Bee Research.	69100	75,222
14	Charleston Farmers Market.	74600	80,986
15	Microbiology Program (R).	78500	111,508
16	Moorefield Agriculture Center (R).	78600	1,038,512
17	Chesapeake Bay Watershed.	83000	116,568
18	Livestock Care Standards Board.	84300	10,000
19	BRIM Premium.	91300	120,202
20	Threat Preparedness.	94200	78,460
21	WV Food Banks.	96900	140,000
22	Senior's Farmers' Market Nutrition		
23	Coupon Program.	97000	<u>62,027</u>
24	Total.		\$ <u>10,019,165</u>

25 Any unexpended balances remaining in the appropriations
26 for Unclassified – Surplus (fund 0131, appropriation 09700),
27 Gypsy Moth Program (fund 0131, appropriation 11900), Current
28 Expenses (fund 0131, appropriation 13000), Predator Control
29 (fund 0131, appropriation 47000), Capital Outlay, Repairs and
30 Equipment – Surplus (fund 0131, appropriation 67700), Capital
31 Outlay and Maintenance (fund 0131, appropriation 75500),
32 Microbiology Program (fund 0131, appropriation 78500),
33 Moorefield Agriculture Center (fund 0131, appropriation 78600),
34 and Agricultural Disaster and Mitigation Needs – Surplus (fund
35 0131, appropriation 85000) at the close of the fiscal year 2016
36 are hereby reappropriated for expenditure during the fiscal year
37 2017, with the exception of fund 0131, fiscal year 2016,
38 appropriation 11900 (\$101,180), fund 0131, fiscal year 2016,
39 appropriation 13000 (\$93,162), fund 0131, fiscal year 2016,
40 appropriation 78500 (\$4,604), and fund 0131, fiscal year 2016,
41 appropriation 78600 (\$43,099) which shall expire on June 30,
42 2016.

43 Included in the above appropriation to Personal Services and
44 Employee Benefits (fund 0131, appropriation 00100), is \$95,000
45 for the Salary of the Commissioner.

46 The above appropriation for Predator Control (fund 0131,
47 appropriation 47000) is to be made available to the United States
48 Department of Agriculture, Wildlife Services to administer the
49 Predator Control Program.

50 A portion of the Current Expenses appropriation may be
51 transferred to a special revenue fund for the purpose of matching
52 federal funds for marketing and development activities.

53 From the above appropriation for WV Food Banks (fund
54 0131, appropriation 96900), \$20,000 is for House of Hope and
55 the remainder of the appropriation shall be allocated to the

56 Huntington Food Bank and the Mountaineer Food Bank in
57 Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 730,202
3	Unclassified (R).	09900	80,015
4	Current Expenses (R).	13000	337,320
5	Repairs and Alterations.	06400	56
6	Soil Conservation Projects (R).	12000	6,861,510
7	BRIM Premium.	91300	<u>26,326</u>
8	Total.		\$ 8,035,429

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 0132, appropriation 09900), Soil
11 Conservation Projects (fund 0132, appropriation 12000), and
12 Current Expenses (fund 0132, appropriation 13000) at the close
13 of the fiscal year 2016 are hereby reappropriated for expenditure
14 during the fiscal year 2017, with the exception of fund 0132,
15 fiscal year 2016, appropriation 12000 (\$313,452) which shall
16 expire on June 30, 2016.

*12 - Department of Agriculture –
Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 624,268
3	Unclassified.	09900	7,132

4	Current Expenses.....	13000		<u>96,344</u>
5	Total.....		\$	727,794

6 Any part or all of this appropriation may be transferred to a
7 special revenue fund for the purpose of matching federal funds
8 for the above-named program.

*13 - Department of Agriculture –
Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2017 Org 1400

1	Programs and Awards for 4-H			
2	Clubs and FFA/FHA.....	57700	\$	15,000
3	Commissioner’s Awards and			
4	Programs.....	73700		<u>39,250</u>
5	Total.....		\$	54,250

*14 - Department of Agriculture –
West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2017 Org 1400

1	Personal Services and Employee			
2	Benefits.....	00100	\$	97,552
3	Unclassified.....	09900		<u>950</u>
4	Total.....		\$	98,502

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits (R)..... 00100	\$	2,859,112
3	Unclassified (R)..... 09900		49,576
4	Current Expenses (R)..... 13000		592,997
5	Repairs and Alterations..... 06400		5,000
6	Equipment..... 07000		33,000
7	Criminal Convictions and Habeas		
8	Corpus Appeals (R)..... 26000		1,058,264
9	Better Government Bureau..... 74000		273,416
10	BRIM Premium..... 91300		<u>105,000</u>
11	Total.....	\$	4,976,365

12 Any unexpended balances remaining in the above
13 appropriations for Personal Services and Employee Benefits
14 (fund 0150, appropriation 00100), Unclassified (fund 0150,
15 appropriation 09900), Current Expenses (fund 0150,
16 appropriation 13000), Criminal Convictions and Habeas Corpus
17 Appeals (fund 0150, appropriation 26000), and Agency Client
18 Revolving Liquidity Pool (fund 0150, appropriation 36200) at
19 the close of the fiscal year 2016 are hereby reappropriated for
20 expenditure during the fiscal year 2017, with the exception of
21 fund 0150, fiscal year 2016, appropriation 00100 (\$206,569)
22 which shall expire on June 30, 2016.

23 Included in the above appropriation to Personal Services and
24 Employee Benefits (fund 0150, appropriation 00100), is \$95,000
25 for the Salary of the Attorney General.

26 When legal counsel or secretarial help is appointed by the
27 Attorney General for any state spending unit, this account shall
28 be reimbursed from such spending units specifically
29 appropriated account or from accounts appropriated by general
30 language contained within this bill: Provided, That the spending
31 unit shall reimburse at a rate and upon terms agreed to by the
32 state spending unit and the Attorney General: Provided,
33 however, That if the spending unit and the Attorney General are

34 unable to agree on the amount and terms of the reimbursement,
 35 the spending unit and the Attorney General shall submit their
 36 proposed reimbursement rates and terms to the Governor for
 37 final determination.

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 118,148
3	Unclassified (R).	09900	10,821
4	Current Expenses (R).	13000	932,352
5	BRIM Premium.	91300	<u>20,000</u>
6	Total.		\$ 1,081,321

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0155, appropriation 09900), Current
 9 Expenses (fund 0155, appropriation 13000), and Technology
 10 Improvements – Surplus (fund 0155, appropriation 72500) at the
 11 close of the fiscal year 2016 are hereby reappropriated for
 12 expenditure during the fiscal year 2017, with the exception of
 13 fund 0155, fiscal year 2016, appropriation 13000 (\$45,439)
 14 which shall expire on June 30, 2016.

15 Included in the above appropriation to Personal Services and
 16 Employee Benefits (fund 0155, appropriation 00100), is \$95,000
 17 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2017 Org 1601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,477

3	Unclassified.	09900		83
4	Current Expenses.	13000		<u>5,782</u>
5	Total.		\$	8,342

DEPARTMENT OF ADMINISTRATION

*18 - Department of Administration –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2017 Org 0201

1	Personal Services and Employee			
2	Benefits.	00100	\$	584,397
3	Unclassified.	09900		9,177
4	Current Expenses.	13000		102,470
5	Repairs and Alterations.	06400		100
6	Equipment.	07000		1,000
7	Financial Advisor (R).	30400		100,546
8	Lease Rental Payments.	51600		15,000,000
9	Design-Build Board.	54000		4,000
10	Other Assets.	69000		100
11	BRIM Premium.	91300		<u>4,000</u>
12	Total.		\$	15,805,790

13 Any unexpended balance remaining in the appropriation for
14 Financial Advisor (fund 0186, appropriation 30400) at the close
15 of the fiscal year 2016 is hereby reappropriated for expenditure
16 during the fiscal year 2017, with the exception of fund 0186,
17 fiscal year 2016, appropriation 30400 (\$10,000) which shall
18 expire on June 30, 2016.

19 The appropriation for Lease Rental Payments (fund 0186,
20 appropriation 51600) shall be disbursed as provided by W.Va.
21 Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2017 Org 0205

1 The Division of Highways, Division of Motor Vehicles,
2 Public Service Commission and other departments, bureaus,
3 divisions, or commissions operating from special revenue funds
4 and/or federal funds shall pay their proportionate share of the
5 retirement costs for their respective divisions. When specific
6 appropriations are not made, such payments may be made from
7 the balances in the various special revenue funds in excess of
8 specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2017 Org 0209

1	Personal Services and Employee		
2	Benefits.	00100	\$ 91,583
3	Unclassified.	09900	2,400
4	Current Expenses.	13000	84,462
5	Repairs and Alterations.	06400	1,500
6	Equipment.	07000	1,000
7	GAAP Project (R).	12500	593,062
8	Other Assets.	69000	2,000
9	BRIM Premium.	91300	<u>4,526</u>
10	Total.		\$ 780,533

11 Any unexpended balance remaining in the appropriation for
12 GAAP Project (fund 0203, appropriation 12500) at the close of
13 the fiscal year 2016 is hereby reappropriated for expenditure
14 during the fiscal year 2017.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2017 Org 0211

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,586,763
3	Current Expenses.	13000	880,865
4	Repairs and Alterations.	06400	500
5	Equipment.	07000	5,000
6	Fire Service Fee.	12600	14,000
7	Buildings (R).	25800	500
8	Preservation and Maintenance of		
9	Statues and Monuments		
10	on Capitol Grounds.	37100	68,000
11	Capital Outlay, Repairs and		
12	Equipment (R).	58900	4,122,932
13	Other Assets.	69000	500
14	Land (R).	73000	500
15	BRIM Premium.	91300	<u>112,481</u>
16	Total.		\$ 7,792,041

17 Any unexpended balances remaining in the above
18 appropriations for Buildings (fund 0230, appropriation 25800),
19 Capital Outlay, Repairs and Equipment (fund 0230,
20 appropriation 58900), Capital Outlay, Repairs and Equipment –
21 Surplus (fund 0230, appropriation 67700), and Land (fund 0230,
22 appropriation 73000) at the close of the fiscal year 2016 are
23 hereby reappropriated for expenditure during the fiscal year
24 2017, with the exception of fund 0230, fiscal year 2016,
25 appropriation 58900 (\$552,068) which shall expire on June 30,
26 2016.

27 From the above appropriation for Preservation and
28 Maintenance of Statues and Monuments on Capitol Grounds

29 (fund 0230, appropriation 37100), the Division shall consult the
 30 Division of Culture and History and Capitol Building
 31 Commission in all aspects of planning, assessment, maintenance
 32 and restoration.

33 The above appropriation for Capital Outlay, Repairs and
 34 Equipment (fund 0230, appropriation 58900) shall be expended
 35 for capital improvements, maintenance, repairs and equipment
 36 for state-owned buildings.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2017 Org 0213

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,006,598
3	Unclassified.	09900	1,444
4	Current Expenses.	13000	24,070
5	Repairs and Alterations.	06400	700
6	Equipment.	07000	1,000
7	Other Assets.	69000	1,000
8	BRIM Premium.	91300	<u>6,167</u>
9	Total.		\$ 1,040,979

10 The division of highways shall reimburse Fund 2031 within
 11 the Division of Purchasing for all actual expenses incurred
 12 pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2017 Org 0215

1	Personal Services and Employee		
2	Benefits.	00100	\$ 875,056
3	Unclassified.	09900	13,283

4	Current Expenses.....	13000		448,447
5	Equipment.....	07000		5,000
6	Buildings (R).....	25800		100
7	Other Assets.....	69000		100
8	Total.....		\$	1,341,986

9 Any unexpended balance remaining in the appropriation for
 10 Buildings (fund 0615, appropriation 25800) at the close of the
 11 fiscal year 2016 is hereby reappropriated for expenditure during
 12 the fiscal year 2017.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2017 Org 0217

1	Current Expenses.....	13000	\$	45,550
2	To pay expenses for members of the commission on uniform			
3	state laws.			

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2017 Org 0219

1	Personal Services and Employee			
2	Benefits.....	00100	\$	918,852
3	Unclassified.....	09900		1,000
4	Current Expenses.....	13000		165,806
5	Equipment.....	07000		50
6	BRIM Premium.....	91300		7,803
7	Total.....		\$	1,093,511

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2017 Org 0220

1	Personal Services and Employee		
2	Benefits.	00100	\$ 569,502
3	Unclassified.	09900	4,500
4	Current Expenses.	13000	123,343
5	Repairs and Alterations.	06400	500
6	Other Assets.	69000	100
7	BRIM Premium.	91300	<u>7,987</u>
8	Total.		\$ 705,932

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2017 Org 0221

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,364,314
3	Unclassified	09900	314,700
4	Current Expenses.	13000	45,840
5	Public Defender Corporations.	35200	19,199,374
6	Appointed Counsel Fees (R).	78800	10,723,115
7	BRIM Premium.	91300	<u>8,884</u>
8	Total.		\$ 31,656,227

9 Any unexpended balance remaining in the above
10 appropriation for Appointed Counsel Fees (fund 0226,
11 appropriation 78800) at the close of the fiscal year 2016 is
12 hereby reappropriated for expenditure during the fiscal year
13 2017.

14 The director shall have the authority to transfer funds from
15 the appropriation to Public Defender Corporations (fund 0226,
16 appropriation 35200) to Appointed Counsel Fees (fund 0226,
17 appropriation 78800).

28 - Committee for the Purchase of
Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2017 Org 0224

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,187
3	Current Expenses.	13000	868
4	Total.		\$ 4,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2017 Org 0225

1	Public Employees'		
2	Insurance Matching.	01200	\$ 0
3	The Division of Highways, Division of Motor Vehicles,		
4	Public Service Commission and other departments, bureaus,		
5	divisions, or commissions operating from special revenue funds		
6	and/or federal funds shall pay their proportionate share of the		
7	public employees health insurance cost for their respective		
8	divisions.		

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2017 Org 0228

1	Forensic Medical Examinations (R).68300		\$ 141,094
2	Federal Funds/Grant Match (R).	74900	101,037
3	Total.		\$ 242,131

4 Any unexpended balances remaining in the appropriations
 5 for Forensic Medical Examinations (fund 0557, appropriation
 6 68300) and Federal Funds/Grant Match (fund 0557,
 7 appropriation 74900) at the close of the fiscal year 2016 are
 8 hereby reappropriated for expenditure during the fiscal year
 9 2017.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2017 Org 0233

1	Personal Services and Employee		
2	Benefits.	00100	\$ 670,168
3	Unclassified.	09900	1,000
4	Current Expenses.	13000	168,046
5	Repairs and Alterations.	06400	100
6	Equipment.	07000	2,500
7	BRIM Premium.	91300	<u>4,200</u>
8	Total.		\$ 846,014

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,628,783
3	Unclassified.	09900	21,435
4	Current Expenses.	13000	750,742
5	Repairs and Alterations.	06400	80,000
6	Equipment (R).	07000	73,000
7	BRIM Premium.	91300	<u>85,000</u>
8	Total.		\$ 3,638,960

9 Any unexpended balance remaining in the appropriation for
 10 Equipment (fund 0250, appropriation 07000) at the close of the
 11 fiscal year 2016 is hereby reappropriated for expenditure during
 12 the fiscal year 2017, with the exception of fund 0250, fiscal year
 13 2016, appropriation 07000 (\$27,000) which shall expire on June
 14 30, 2016.

15 Out of the above appropriations a sum may be used to match
 16 federal funds for cooperative studies or other funds for similar
 17 purposes.

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2017 Org 0306

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,606,686
3	Unclassified.	09900	28,799
4	Current Expenses.	13000	73,149
5	Repairs and Alterations.	06400	968
6	Mineral Mapping System (R).	20700	1,161,131
7	BRIM Premium.	91300	<u>20,950</u>
8	Total.		\$ 2,891,683

9 Any unexpended balance remaining in the appropriation for
 10 Mineral Mapping System (fund 0253, appropriation 20700) at
 11 the close of the fiscal year 2016 is hereby reappropriated for
 12 expenditure during the fiscal year 2017, with the exception of
 13 fund 0253, fiscal year 2016, appropriation 20700 (\$60,767)
 14 which shall expire on June 30, 2016.

15 The above Unclassified and Current Expenses appropriations
 16 include funding to secure federal and other contracts and may be
 17 transferred to a special revolving fund (fund 3105) for the
 18 purpose of providing advance funding for such contracts.

34 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2017 Org 0307

1	Personal Services and		
2	Employee Benefits.	00100	\$ 4,210,888
3	ARC-WV Home of Your		
4	Own Alliance.	04800	32,394
5	Unclassified.	09900	128,379
6	Current Expenses.	13000	2,038,482
7	Southern WV Career Center.	07100	398,246
8	National Youth Science Camp.	13200	246,500
9	Local Economic Development		
10	Partnerships (R).	13300	1,584,000
11	ARC Assessment.	13600	152,585
12	Mid-Atlantic Aerospace Complex.	23100	143,169
13	Guaranteed Work Force		
14	Grant (R).	24200	990,547
15	Robert C. Byrd Institute for		
16	Advanced/Flexible Manufacturing -		
17	Technology Outreach and Programs		
18	for Environmental and		
19	Advanced Technologies.	36700	420,964
20	Chemical Alliance Zone.	39000	38,495
21	WV High Tech Consortium.	39100	190,950
22	Regional Contracting		
23	Assistance Center.	41800	199,886
24	Highway Authorities.	43100	702,795
25	International Offices (R).	59300	508,672
26	WV Manufacturing Extension		
27	Partnership.	73100	116,619
28	Polymer Alliance.	75400	93,133
29	Regional Councils.	78400	356,337
30	Mainstreet Program.	79400	167,618

31	National Institute of		
32	Chemical Studies.....	80500	57,095
33	I-79 Development Council.....	82400	44,444
34	Mingo County Post Mine		
35	Land Use Projects	84100	240,000
36	BRIM Premium.....	91300	25,052
37	Hatfield McCoy Recreational		
38	Trail.....	96000	202,464
39	Hardwood Alliance Zone.....	99200	<u>34,500</u>
40	Total.....		\$ 13,324,214

41 Any unexpended balances remaining in the appropriations
42 for Unclassified – Surplus (fund 0256, appropriation 09700),
43 Partnership Grants (fund 0256, appropriation 13100), Local
44 Economic Development Partnerships (fund 0256, appropriation
45 13300), Guaranteed Work Force Grant (fund 0256, appropriation
46 24200), Industrial Park Assistance (fund 0256, appropriation
47 48000), Small Business Development (fund 0256, appropriation
48 70300), Local Economic Development Assistance (fund 0256,
49 appropriation 81900), and 4-H Camp Improvements (fund 0256,
50 appropriation 94100) at the close of the fiscal year 2016 are
51 hereby reappropriated for expenditure during the fiscal year
52 2017.

53 The above appropriation to Local Economic Development
54 Partnerships (fund 0256, appropriation 13300) shall be used by
55 the West Virginia Development Office for the award of funding
56 assistance to county and regional economic development
57 corporations or authorities participating in the certified
58 development community program developed under the
59 provisions of W.Va. Code §5B-2-14. The West Virginia
60 Development Office shall award the funding assistance through
61 a matching grant program, based upon a formula whereby
62 funding assistance may not exceed \$34,000 per county served by
63 an economic development or redevelopment corporation or
64 authority.

65 From the above appropriation for Highway Authorities (fund
 66 0256, appropriation 43100), \$102,286 is for King Coal Highway
 67 Authority; \$102,286 is for Coal Field Expressway Authority;
 68 \$163,659 is for Coal Heritage Area Authority; \$40,915 is for
 69 Little Kanawha River Parkway; \$73,646 is for Midland Trail
 70 Scenic Highway Association; \$46,642 is for Shawnee Parkway
 71 Authority; \$81,829 is for Corridor G Regional Development
 72 Authority; \$50,616 is for Corridor H Authority; and \$40,916 is
 73 for Route 2 I68 Highway Authority.

35 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2017 Org 0308

1	Personal Services and		
2	Employee Benefits.	00100	\$ 2,129,007
3	Unclassified.	09900	27,904
4	Current Expenses.	13000	619,527
5	Repairs and Alterations.	06400	30,000
6	Equipment.	07000	10,000
7	BRIM Premium.	91300	<u>22,752</u>
8	Total.		\$ 2,839,190

*36 - Division of Labor –
 Occupational Safety and Health Fund*

(WV Code Chapter 21)

Fund 0616 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 74,883
3	Current Expenses.	13000	79,963
4	Repairs and Alterations.	06400	500
5	Equipment.	07000	500

6	BRIM Premium.	91300		<u>985</u>
7	Total.		\$	156,831

37 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2017 Org 0310

1	Personal Services and Employee			
2	Benefits.	00100	\$	15,898,788
3	Unclassified.	09900		11,220
4	Current Expenses.	13000		57,416
5	Repairs and Alterations.	06400		100
6	Equipment.	07000		100
7	Buildings (R).	25800		100
8	Litter Control Conservation			
9	Officers.	56400		143,950
10	Upper Mud River Flood Control. . .	65400		163,620
11	Other Assets.	69000		100
12	Land (R).	73000		100
13	Law Enforcement.	80600		2,671,687
14	BRIM Premium.	91300		<u>293,374</u>
15	Total.		\$	19,240,555

16 Any unexpended balances remaining in the appropriations
 17 for Buildings (fund 0265, appropriation 25800), Land (fund
 18 0265, appropriation 73000), and State Park Improvements –
 19 Surplus (fund 0265, appropriation 76300) at the close of the
 20 fiscal year 2016 are hereby reappropriated for expenditure
 21 during the fiscal year 2017, with the exception of fund 0265,
 22 fiscal year 2016, appropriation 25800 (\$300) and fund 0265,
 23 fiscal year 2016, appropriation 73000 (\$300) which shall expire
 24 on June 30, 2016.

25 Any revenue derived from mineral extraction at any state
 26 park shall be deposited in a special revenue account of the
 27 division of natural resources, first for bond debt payment
 28 purposes and with any remainder to be for park operation and
 29 improvement purposes.

38 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 9,890,848
3	Unclassified.	09900	120,000
4	Current Expenses.	13000	1,870,667
5	Coal Dust and Rock Dust		
6	Sampling.	27000	477,988
7	BRIM Premium.	91300	<u>68,134</u>
8	Total.		\$ 12,427,637

9 Included in the above appropriation for Current Expenses
 10 (fund 0277, appropriation 13000) is \$500,000 for the Southern
 11 West Virginia Community and Technical College Mine Rescue
 12 and Rapid Response Team.

39 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2017 Org 0319

1	Personal Services and Employee		
2	Benefits.	00100	\$ 227,655
3	Unclassified.	09900	3,624
4	Current Expenses.	13000	<u>132,240</u>
5	Total.		\$ 363,519

40 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2017 Org 0323

1	Personal Services and Employee		
2	Benefits.	00100	\$ 53,059
3	Unclassified.	09900	627
4	Current Expenses.	13000	<u>8,695</u>
5	Total.		\$ 62,381

*41 - Department of Commerce –
Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2017 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 346,942
3	Unclassified.	09900	3,500
4	Current Expenses.	13000	<u>29,560</u>
5	Total.		\$ 380,002

*42 - Department of Commerce –
Office of the Secretary –
Office of Economic Opportunity*Fund 0617 FY 2017 Org 0327

1	Office of Economic Opportunity. . .	03400	\$ 98,350
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43 - Division of Energy

(WV Code Chapter 5H)

Fund 0612 FY 2017 Org 0328

1	Personal Services and Employee		
2	Benefits.	00100	\$ 196,280

2016]

HOUSE OF DELEGATES

2377

3	Unclassified.	09900		15,518
4	Current Expenses.	13000		1,337,905
5	BRIM Premium.	91300		<u>3,297</u>
6	Total.		\$	1,553,000

7 From the above appropriation for Current Expenses (fund
8 0612, appropriation 13000) \$593,375 is for West Virginia
9 University and \$593,375 is for Southern West Virginia
10 Community and Technical College for the Mine Training and
11 Energy Technologies Academy.

DEPARTMENT OF EDUCATION

*44 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.	00100	\$	321,931
3	Current Expenses.	13000		<u>2,118,490</u>
4	Total.		\$	2,440,421

*45 - State Board of Education –
State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 0306 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.	00100	\$	600,273
3	Current Expenses.	13000		128,033
4	BRIM Premium.	91300		<u>21,694</u>
5	Total.		\$	750,000

*46 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,278,989
3	Technology System Specialist.	06200	2,000,000
4	Teachers' Retirement Savings		
5	Realized.	09500	37,656,000
6	Unclassified (R).	09900	300,000
7	Current Expenses (R).	13000	2,579,645
8	Equipment.	07000	5,000
9	Increased Enrollment.	14000	3,430,000
10	Safe Schools.	14300	4,980,178
11	Teacher Mentor (R).	15800	592,034
12	Buildings (R).	25800	1,000
13	Allowance for County Transfers.	26400	282,732
14	Technology Repair and		
15	Modernization.	29800	951,003
16	HVAC Technicians.	35500	495,507
17	Early Retirement Notification		
18	Incentive.	36600	300,000
19	MATH Program.	36800	336,532
20	Assessment Programs.	39600	1,839,588
21	21st Century Fellows.	50700	274,899
22	English as a Second Language.	52800	96,000
23	Teacher Reimbursement.	57300	297,188
24	Hospitality Training.	60000	267,123
25	Hi-Y Youth in Government.	61600	100,000
26	High Acuity Special Needs (R).	63400	1,500,000
27	Foreign Student Education.	63600	89,347
28	Principals Mentorship.	64900	69,250
29	State Board of Education		
30	Administrative Costs.	68400	366,152

31	Other Assets.....	69000	1,000
32	Educational Enhancements.	69500	125,000
33	IT Academy (R).....	72100	500,000
34	Land (R).....	73000	1,000
35	Early Literacy Program.	75600	5,700,000
36	School Based Truancy		
37	Prevention (R).....	78101	2,000,000
38	Innovation in Education.....	78102	2,496,144
39	Elementary/Middle Alternative		
40	Schools.	83300	450,000
41	21st Century Learners (R).....	88600	2,006,441
42	Technology Initiatives.....	90100	100,000
43	BRIM Premium.	91300	295,036
44	High Acuity Health Care		
45	Needs Program.	92000	925,000
46	21st Century Assessment and		
47	Professional Development... ..	93100	3,499,007
48	21st Century Technology		
49	Infrastructure Network		
50	Tools and Support.....	93300	7,636,586
51	Regional Education Service		
52	Agencies.	97200	3,543,120
53	Educational Program Allowance... ..	99600	<u>516,250</u>
54	Total.....		\$ 92,882,751

55 The above appropriations include funding for the state board
56 of education and their executive office.

57 Any unexpended balances remaining in the appropriations
58 for Unclassified (fund 0313, appropriation 09900), Current
59 Expenses (fund 0313, appropriation 13000), Teacher Mentor
60 (fund 0313, appropriation 15800), National Teacher Certification
61 (fund 0313, appropriation 16100), Buildings (fund 0313,
62 appropriation 25800), High Acuity Special Needs (fund 0313,
63 appropriation 63400), IT Academy (fund 0313, appropriation
64 72100), Land (fund 0313, appropriation 73000), School Based

65 Truancy Prevention (fund 0313, appropriation 78101), and 21st
66 Century Learners (fund 0313, appropriation 88600) at the close
67 of the fiscal year 2016 are hereby reappropriated for expenditure
68 during the fiscal year 2017, with the exception of fund 0313,
69 fiscal year 2016, appropriation 13000 (\$106,923), fund 0313,
70 fiscal year 2016, appropriation 16100 (\$150,000), fund 0313,
71 fiscal year 2016, appropriation 72100 (\$20,000), fund 0313,
72 fiscal year 2016, appropriation 78101 (\$1,400,000), and fund
73 0313, fiscal year 2016, appropriation 88600 (\$68,675) which
74 shall expire on June 30, 2016.

75 The above appropriation for Technology System Specialists
76 (fund 0313, appropriation 06200), shall first be used for the
77 continuance of current pilot projects. The remaining balance, if
78 any, may be used to expand the pilot project for additional
79 counties.

80 The above appropriation for Teachers' Retirement Savings
81 Realized (fund 0313, appropriation 09500) shall be transferred
82 to the Employee Pension and Health Care Benefit Fund (fund
83 2044).

84 The above appropriation for Hospitality Training (fund
85 0313, appropriation 60000), shall be allocated only to entities
86 that have a plan approved for funding by the Department of
87 Education, at the funding level determined by the State
88 Superintendent of Schools. Plans shall be submitted to the State
89 Superintendent of Schools to be considered for funding.

90 The above appropriation for Educational Enhancements
91 (fund 0313, appropriation 69500) shall be used for Reconnecting
92 McDowell – Save the Children.

93 From the above appropriation for Educational Program
94 Allowance (fund 0313, appropriation 99600), \$100,000 shall be
95 expended for Webster County Board of Education for Hacker
96 Valley; \$150,000 shall be for the Randolph County Board of

97 Education for Pickens School; \$100,000 shall be for the Preston
 98 County Board of Education for the Aurora School; \$100,000
 99 shall be for the Fayette County Board of Education for Meadow
 100 Bridge; and \$66,250 is for Project Based Learning in STEM
 101 fields.

*47 - State Board of Education –
 Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2017 Org 0402

1	Special Education – Counties.	15900	\$	7,271,757
2	Special Education – Institutions. . .	16000		3,748,794
3	Education of Juveniles Held in			
4	Predispositional			
5	Juvenile Detention Centers. . . .	30200		591,646
6	Education of Institutionalized			
7	Juveniles and Adults (R).	47200		<u>17,574,235</u>
8	Total.		\$	29,186,432

9 Any unexpended balance remaining in the appropriation for
 10 Education of Institutionalized Juveniles and Adults (fund 0314,
 11 appropriation 47200) at the close of the fiscal year 2016 is
 12 hereby reappropriated for expenditure during the fiscal year
 13 2017, with the exception of fund 0314, fiscal year 2016,
 14 appropriation 47200 (\$173,354) which shall expire on June 30,
 15 2016.

16 From the above appropriations, the superintendent shall have
 17 authority to expend funds for the costs of special education for
 18 those children residing in out-of-state placements.

*48 - State Board of Education –
 State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2017 Org 0402

1	Other Current Expenses.....	02200	\$ 152,089,960
2	Advanced Placement.....	05300	543,661
3	Professional Educators.....	15100	856,017,057
4	Service Personnel.....	15200	290,711,435
5	Fixed Charges.....	15300	102,033,345
6	Transportation.....	15400	74,729,928
7	Professional Student Support		
8	Services.....	65500	36,952,999
9	Improved Instructional		
10	Programs.....	15600	49,131,108
11	21st Century Strategic Technology		
12	Learning Growth.....	93600	20,756,981
13	Basic Foundation Allowances.....		1,582,966,474
14	Less Local Share.....		(467,039,269)
15	Adjustments.....		(2,527,044)
16	Total Basic State Aid.....		1,113,400,161
17	Public Employees' Insurance		
18	Matching.....	01200	241,429,043
19	Teachers' Retirement System.....	01900	67,464,000
20	School Building Authority.....	45300	23,421,520
21	Retirement Systems –		
22	Unfunded Liability.....	77500	<u>320,634,000</u>
23	Total.....		\$ 1,766,348,724

*49 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 1,275,473
3	Unclassified.....	09900	268,800
4	Current Expenses.....	13000	882,131

5	Wood Products – Forestry		
6	Vocational Program..	14600	67,417
7	Albert Yanni Vocational Program..	14700	131,951
8	Vocational Aid..	14800	22,315,162
9	Adult Basic Education..	14900	4,523,322
10	Program Modernization..	30500	884,313
11	High School Equivalency		
12	Diploma Testing (R)..	72600	778,815
13	FFA Grant Awards..	83900	11,496
14	Pre-Engineering Academy		
15	Program..	84000	<u>265,294</u>
16	Total..		\$ 31,404,174

17 Any unexpended balances remaining in the appropriations
 18 for GED Testing (fund 0390, appropriation 33900) and High
 19 School Equivalency Diploma Testing (fund 0390, appropriation
 20 72600) at the close of the fiscal year 2016 is hereby
 21 reappropriated for expenditure during the fiscal year 2017, with
 22 the exception of fund 0390, fiscal year 2016, appropriation
 23 72600 (\$240,037) which shall expire on June 30, 2016.

*50 - State Board of Education –
 Division of Education Performance Audits*

(WV Code Chapters 18 and 18A)

Fund 0573 FY 2017 Org 0403

1	Personal Services and Employee		
2	Benefits..	00100	\$ 848,582
3	Unclassified..	09900	7,000
4	Current Expenses..	13000	294,316
5	Repairs and Alterations..	06400	1,000
6	Equipment..	07000	1,000
7	Other Assets..	69000	<u>1,000</u>
8	Total..		\$ 1,152,898

*51 - State Board of Education –
West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2017 Org 0403

1	Personal Services and Employee		
2	Benefits.	00100	\$ 11,606,686
3	Unclassified.	09900	107,329
4	Current Expenses.	13000	1,761,169
5	Repairs and Alterations.	06400	115,000
6	Equipment.	07000	35,000
7	Buildings (R).	25800	50,000
8	Capital Outlay and		
9	Maintenance (R).	75500	62,500
10	BRIM Premium.	91300	<u>102,750</u>
11	Total.		\$ 13,840,434

12 Any unexpended balances remaining in the appropriations
 13 for Buildings (fund 0320, appropriation 25800) and Capital
 14 Outlay and Maintenance (fund 0320, appropriation 75500) at the
 15 close of the fiscal year 2016 are hereby reappropriated for
 16 expenditure during the fiscal year 2017.

DEPARTMENT OF EDUCATION AND THE ARTS

*52 - Department of Education and the Arts –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2017 Org 0431

1	Personal Services and Employee		
2	Benefits.	00100	\$ 851,753
3	Unclassified.	09900	35,000
4	Current Expenses.	13000	27,818

5	Center for Professional		
6	Development (R).....	11500	2,208,508
7	National Youth Science Camp	13200	0
8	WV Humanities Council.	16800	450,000
9	Benedum Professional Development		
10	Collaborative (R).....	42700	505,645
11	Governor's Honors		
12	Academy (R).....	47800	997,714
13	Educational Enhancements.	69500	75,000
14	S.T.E.M. Education and		
15	Grant Program (R).....	71900	500,292
16	Energy Express.	86100	390,750
17	BRIM Premium.	91300	4,509
18	Special Olympic Games.....	96600	<u>25,000</u>
19	Total.....		\$ 6,071,989

20 Any unexpended balances remaining in the appropriations
21 for Center for Professional Development (fund 0294,
22 appropriation 11500), Benedum Professional Development
23 Collaborative (fund 0294, appropriation 42700), Governor's
24 Honors Academy (fund 0294, appropriation 47800), and
25 S.T.E.M. Education and Grant Program (fund 0294,
26 appropriation 71900) at the close of the fiscal year 2016 are
27 hereby reappropriated for expenditure during the fiscal year
28 2017, with the exception of fund 0294, fiscal year 2016,
29 appropriation 11500 (\$92,000) and fund 0294, fiscal year 2016,
30 appropriation 42700 (\$300,250) which shall expire on June 30,
31 2016.

32 The above appropriation for Educational Enhancements
33 (fund 0294, appropriation 69500) shall be used for the Clay
34 Center.

Fund 0293 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,837,234
3	Unclassified (R).	09900	44,177
4	Current Expenses.	13000	681,851
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	1
7	Buildings (R).	25800	1
8	Other Assets.	69000	1
9	Land (R).	73000	1
10	Culture and History		
11	Programming.	73200	236,298
12	Capital Outlay and		
13	Maintenance (R).	75500	20,000
14	Historical Highway Marker		
15	Program.	84400	58,722
16	BRIM Premium.	91300	<u>33,677</u>
17	Total.		\$ 4,912,963

18 Any unexpended balances remaining in the appropriations
19 for Unclassified (fund 0293, appropriation 09900), Buildings
20 (fund 0293, appropriation 25800), Capital Outlay, Repairs and
21 Equipment (fund 0293, appropriation 58900), Capital
22 Improvements – Surplus (fund 0293, appropriation 66100),
23 Capital Outlay, Repairs and Equipment – Surplus (fund 0293,
24 appropriation 67700), Land (fund 0293, appropriation 73000),
25 and Capital Outlay and Maintenance (fund 0293, appropriation
26 75500) at the close of the fiscal year 2016 are hereby
27 reappropriated for expenditure during the fiscal year 2017.

28 The Current Expense appropriation includes funding for the
29 arts funds, department programming funds, grants, fairs and
30 festivals and Camp Washington Carver and shall be expended
31 only upon authorization of the division of culture and history and

32 in accordance with the provisions of Chapter 5A, Article 3, and
33 Chapter 12 of the Code.

54 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2017 Org 0433

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,318,760
3	Current Expenses.	13000	171,140
4	Repairs and Alterations.	06400	6,500
5	Services to Blind & Handicapped. .	18100	161,717
6	BRIM Premium.	91300	<u>15,177</u>
	Total.		\$ 1,673,294

55 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2017 Org 0439

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,275,602
3	Current Expenses.	13000	114,997
4	Mountain Stage.	24900	300,000
5	Capital Outlay and		
6	Maintenance (R).	75500	10,000
7	BRIM Premium.	91300	<u>41,929</u>
8	Total.		\$ 4,742,528

9 Any unexpended balance remaining in the appropriation for
10 Capital Outlay and Maintenance (fund 0300, appropriation
11 75500) at the close of the fiscal year 2016 is hereby
12 reappropriated for expenditure during the fiscal year 2017, with
13 the exception of fund 0300, fiscal year 2016, appropriation
14 75500 (\$40,000) which shall expire on June 30, 2016.

56 - State Board of Rehabilitation –
Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,664,313
3	Independent Living Services.	00900	500,000
4	Current Expenses.	13000	545,202
5	Workshop Development	16300	2,116,149
6	Supported Employment Extended		
7	Services.	20600	100,000
8	Ron Yost Personal Assistance Fund.40700		388,698
9	Employment Attendant Care		
10	Program	59800	156,065
11	BRIM Premium.	91300	<u>67,033</u>
12	Total.		\$ 14,537,460

13 From the above appropriation for Workshop Development
 14 (fund 0310, appropriation 16300), funds shall be used
 15 exclusively with the private nonprofit community rehabilitation
 16 program organizations known as work centers or sheltered
 17 workshops. The appropriation shall also be used to continue the
 18 support of the program, services, and individuals with
 19 disabilities currently in place at those organizations.

20 Any unexpended balance remaining in the appropriation for
 21 Ron Yost Personal Assistance Fund (fund 0310, appropriation
 22 40700) at the close of the fiscal year 2016 is hereby
 23 reappropriated for expenditure during the fiscal year 2017.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

57 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2017 Org 0311

1	Personal Services and Employee		
2	Benefits.	00100	\$ 72,495
3	Current Expenses.	13000	30,691
4	Repairs and Alterations.	06400	100
5	Equipment.	07000	717
6	Other Assets.	69000	600
7	BRIM Premium.	91300	684
8	Total.		<u>\$ 105,287</u>

58 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,014,779
3	Water Resources Protection and		
4	Management.	06800	580,093
5	Current Expenses.	13000	250,950
6	Repairs and Alterations.	06400	5,950
7	Equipment.	07000	6,500
8	Unclassified.	09900	28,189
9	Dam Safety.	60700	212,332
10	West Virginia Stream Partners		
11	Program.	63700	77,396
12	Meth Lab Cleanup.	65600	205,673
13	Other Assets.	69000	10,183
14	WV Contributions to River		
15	Commissions.	77600	148,485
16	Office of Water Resources		
17	Non-Enforcement Activity.	85500	<u>926,951</u>
18	Total.		<u>\$ 6,467,481</u>

19 A portion of the appropriations for Current Expenses (fund
 20 0273, appropriation 13000) and Dam Safety (fund 0273,
 21 appropriation 60700) may be transferred to the special revenue
 22 fund Dam Safety Rehabilitation Revolving Fund (fund 3025) for
 23 the state deficient dams rehabilitation assistance program.

59 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2017 Org 0325

1	Personal Services and Employee		
2	Benefits.	00100	\$ 61,586
3	Current Expenses.	13000	13,746
4	Repairs and Alterations.	06400	50
5	Equipment.	07000	579
6	Other Assets.	69000	200
7	BRIM Premium.	91300	<u>2,013</u>
8	Total.		\$ 78,174

**DEPARTMENT OF HEALTH AND HUMAN
 RESOURCES**

*60 - Department of Health and Human Resources –
 Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2017 Org 0501

1	Personal Services and Employee		
2	Benefits.	00100	\$ 376,440
3	Unclassified.	09900	8,074
4	Current Expenses.	13000	48,773
5	Women's Commission (R).	19100	156,408
6	Commission for the Deaf and		
7	Hard of Hearing.	70400	<u>216,635</u>
8	Total.		\$ 806,330

9 Any unexpended balance remaining in the appropriation for
 10 the Women's Commission (fund 0400, appropriation 19100) at
 11 the close of the fiscal year 2016 is hereby reappropriated for
 12 expenditure during the fiscal year 2017.

*61 - Division of Health –
 Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 12,142,743
3	Chief Medical Examiner.	04500	5,485,477
4	Unclassified.	09900	691,862
5	Current Expenses.	13000	4,640,355
6	State Aid for Local and Basic		
7	Public Health Services.	18400	12,649,545
8	Safe Drinking Water		
9	Program (R).	18700	2,172,181
10	Women, Infants and Children.	21000	38,621
11	Early Intervention.	22300	6,044,884
12	Cancer Registry.	22500	197,207
13	CARDIAC Project.	37500	427,500
14	State EMS Technical Assistance.	37900	1,353,656
15	Statewide EMS Program		
16	Support (R).	38300	957,473
17	Black Lung Clinics	46700	170,885
18	Center for End of Life.	54500	420,198
19	Pediatric Dental Services.	55000	51,888
20	Vaccine for Children	55100	334,076
21	Tuberculosis Control	55300	366,879
22	Maternal and Child Health		
23	Clinics, Clinicians Medical		
24	Contracts and Fees (R).	57500	6,280,223
25	Epidemiology Support.	62600	1,503,498

26	Primary Care Support.	62800	4,670,953
27	Sexual Assault Intervention and		
28	Prevention.	72300	125,000
29	Health Right Free Clinics.	72700	2,750,000
30	Capital Outlay and		
31	Maintenance (R).	75500	100,000
32	Healthy Lifestyles.	77800	147,034
33	Maternal Mortality Review.	83400	46,973
34	Osteoporosis and Arthritis		
35	Prevention.	84900	158,530
36	Diabetes Education and		
37	Prevention.	87300	97,125
38	Tobacco Education Program (R). . .	90600	3,037,643
39	BRIM Premium.	91300	211,214
40	State Trauma and Emergency		
41	Care System.	91800	<u>1,993,374</u>
42	Total.		\$ 69,266,997

43 Any unexpended balances remaining in the appropriations
44 for Safe Drinking Water Program (fund 0407, appropriation
45 18700), Statewide EMS Program Support (fund 0407,
46 appropriation 38300), Maternal and Child Health Clinics,
47 Clinicians and Medical Contracts and Fees (fund 0407,
48 appropriation 57500), Capital Outlay and Maintenance (fund
49 0407, appropriation 75500), Emergency Response Entities –
50 Special Projects (fund 0407, appropriation 82200), Assistance to
51 Primary Health Care Centers Community Health Foundation
52 (fund 0407, appropriation 84500), and Tobacco Education
53 Program (fund 0407, appropriation 90600) at the close of the
54 fiscal year 2016 are hereby reappropriated for expenditure
55 during the fiscal year 2017.

56 From the above appropriation for Current Expenses (fund
57 0407, appropriation 13000), an amount not less than \$100,000 is
58 for the West Virginia Cancer Coalition; \$50,000 shall be
59 expended for the West Virginia Aids Coalition; \$100,000 is for

60 Adolescent Immunization Education; \$73,065 is for informal
 61 dispute resolution relating to nursing home administrative
 62 appeals; and \$50,000 is for Hospital Hospitality House of
 63 Huntington.

64 From the above appropriation for Maternal and Child Health
 65 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
 66 appropriation 57500) up to \$400,000 shall be transferred to the
 67 Breast and Cervical Cancer Diagnostic Treatment Fund (fund
 68 5197) and \$11,000 is for the Marshall County Health
 69 Department for dental services.

62 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,567,519
3	Current Expenses.	13000	12,463
4	Behavioral Health Program (R).	21900	64,723,691
5	Family Support Act.	22100	251,226
6	Institutional Facilities		
7	Operations (R).	33500	105,711,029
8	Substance Abuse Continuum of		
9	Care (R).	35400	5,000,000
10	Capital Outlay and		
11	Maintenance (R).	75500	950,000
12	Renaissance Program.	80400	165,996
13	BRIM Premium.	91300	1,088,070
14	Total.		<u>\$ 179,469,994</u>

15 Any unexpended balances remaining in the appropriations
 16 for Behavioral Health Program (fund 0525, appropriation
 17 21900), Institutional Facilities Operations (fund 0525,
 18 appropriation 33500), Substance Abuse Continuum of Care
 19 (fund 0525, appropriation 35400), Capital Outlay (fund 0525,

20 appropriation 51100), Behavioral Health Program – Surplus
21 (fund 0525, appropriation 63100), Institutional Facilities
22 Operations – Surplus (fund 0525, appropriation 63200),
23 Substance Abuse Continuum of Care – Surplus (fund 0525,
24 appropriation 72200), and Capital Outlay and Maintenance (fund
25 0525, appropriation 75500) at the close of the fiscal year 2016
26 are hereby reappropriated for expenditure during the fiscal year
27 2017, with the exception of fund 0525, fiscal year 2016,
28 appropriation 21900 (\$5,000,000) and fund 0525, fiscal year
29 2016, appropriation 33500 (\$5,000,000) which shall expire on
30 June 30, 2016.

31 Included in the above appropriation for Behavioral Health
32 Program (fund 0525, appropriation 21900) is \$100,000 for the
33 Healing Place of Huntington.

34 From the above appropriation for Institutional Facilities
35 Operations (fund 0525, appropriation 33500), together with
36 available funds from the Division of Health – Hospital Services
37 Revenue Account (fund 5156, appropriation 33500), on July 1,
38 2016, the sum of \$160,000 shall be transferred to the Department
39 of Agriculture – Land Division – Farm Operating Fund (1412)
40 as advance payment for the purchase of food products; actual
41 payments for such purchases shall not be required until such
42 credits have been completely expended.

43 The above appropriation for Institutional Facilities
44 Operations (fund 0525, appropriation 33500) contains prior year
45 salary increases due to the Hartley court order in the amount of
46 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984
47 for Mildred Mitchel-Bateman Hospital.

48 From the above appropriation for Substance Abuse
49 Continuum of Care (fund 0525, appropriation 35400), the
50 funding will be consistent with the goal areas outlined in the
51 Comprehensive Substance Abuse Strategic Action Plan.

52 Additional funds have been appropriated in fund 5156, fiscal
 53 year 2017, organization 0506, for the operation of the
 54 institutional facilities. The secretary of the Department of Health
 55 and Human Resources is authorized to utilize up to ten percent
 56 of the funds from the Institutional Facilities Operations
 57 appropriation to facilitate cost effective and cost saving services
 58 at the community level.

*63 - Division of Health –
 West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2017 Org 0506

1	West Virginia Drinking Water		
2	Treatment Revolving Fund –		
3	Transfer.	68900	\$ 647,500

4 The above appropriation for Drinking Water Treatment
 5 Revolving Fund – Transfer shall be transferred to the West
 6 Virginia Drinking Water Treatment Revolving Fund or
 7 appropriate bank depository and the Drinking Water Treatment
 8 Revolving – Administrative Expense Fund as provided by
 9 Chapter 16 of the Code.

63 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2017 Org 0510

1	Personal Services and Employee		
2	Benefits.	00100	\$ 914,175
3	Unclassified.	09900	4,024
4	Current Expenses.	13000	191,766
5	BRIM Premium.	91300	9,311
6	Total.		\$ 1,119,276

64 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 43,255,270
3	Unclassified.	09900	5,688,944
4	Current Expenses.	13000	11,298,895
5	Child Care Development.	14400	11,228,136
6	Medical Services Contracts and		
7	Office of Managed Care.	18300	1,835,469
8	Medical Services.	18900	512,862,085
9	Social Services.	19500	142,485,812
10	Family Preservation Program.	19600	1,565,000
11	Family Resource Networks.	27400	1,762,464
12	Domestic Violence Legal		
13	Services Fund.	38400	400,000
14	James "Tiger" Morton Catastrophic		
15	Illness Fund.	45500	101,682
16	I/DD Waiver.	46600	88,753,483
17	Child Protective Services		
18	Case Workers	46800	22,581,819
19	OSCAR and RAPIDS	51500	6,413,863
20	Title XIX Waiver for Seniors.	53300	13,593,620
21	WV Teaching Hospitals		
22	Tertiary/Safety Net.	54700	6,356,000
23	Child Welfare System	60300	1,259,065
24	In-Home Family Education.	68800	1,000,000
25	WV Works Separate State		
26	Program.	69800	3,250,000
27	Child Support Enforcement.	70500	6,297,412
28	Medicaid Auditing.	70600	607,142
29	Temporary Assistance for		
30	Needy Families/		
31	Maintenance of Effort.	70700	22,969,096

32	Child Care - Maintenance of		
33	Effort Match.	70800	5,693,743
34	Child and Family Services.	73600	2,850,000
35	Grants for Licensed Domestic		
36	Violence Programs and		
37	Statewide Prevention.	75000	2,500,000
38	Capital Outlay and		
39	Maintenance (R).	75500	11,875
40	Community Based Services and		
41	Pilot Programs for Youth.	75900	1,000,000
42	Medical Services Administrative		
43	Costs.	78900	35,630,109
44	Traumatic Brain Injury Waiver.	83500	800,000
45	Indigent Burials (R).	85100	2,050,000
46	BRIM Premium.	91300	834,187
47	Rural Hospitals Under 150 Beds.	94000	2,596,000
48	Children’s Trust Fund – Transfer	95100	220,000
49	Total.		<u>\$ 959,751,171</u>

50 Any unexpended balances remaining in the appropriations
51 for Capital Outlay and Maintenance (fund 0403, appropriation
52 75500) and Indigent Burials (fund 0403, appropriation 85100) at
53 the close of the fiscal year 2016 are hereby reappropriated for
54 expenditure during the fiscal year 2017.

55 Notwithstanding the provisions of Title I, section three of
56 this bill, the secretary of the Department of Health and Human
57 Resources shall have the authority to transfer funds within the
58 above appropriations: Provided, That no more than five percent
59 of the funds appropriated to one appropriation may be
60 transferred to other appropriations: Provided, however, That no
61 funds from other appropriations shall be transferred to the
62 personal services and employee benefits appropriation.

63 The secretary shall have authority to expend funds for the
64 educational costs of those children residing in out-of-state
65 placements, excluding the costs of special education programs.

66 Included in the above appropriation for Social Services (fund
67 0403, appropriation 19500) is funding for continuing education
68 requirements relating to the practice of social work.

69 The above appropriation for Domestic Violence Legal
70 Services Fund (fund 0403, appropriation 38400) shall be
71 transferred to the Domestic Violence Legal Services Fund (fund
72 5455).

73 The above appropriation for James “Tiger” Morton
74 Catastrophic Illness Fund (fund 0403, appropriation 45500) shall
75 be transferred to the James “Tiger” Morton Catastrophic Illness
76 Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the
77 Code.

78 The above appropriation for WV Works Separate State
79 Program (fund 0403, appropriation 69800), shall be transferred
80 to the WV Works Separate State College Program Fund (fund
81 5467), and the WV Works Separate State Two-Parent Program
82 Fund (fund 5468) as determined by the secretary of the
83 Department of Health and Human Resources.

84 From the above appropriation for Child Support
85 Enforcement (fund 0403, appropriation 70500) an amount not to
86 exceed \$300,000 may be transferred to a local banking
87 depository to be utilized to offset funds determined to be
88 uncollectible.

89 From the above appropriation for the Grants for Licensed
90 Domestic Violence Programs and Statewide Prevention (fund
91 0403, appropriation 75000), 50% of the total shall be divided
92 equally and distributed among the fourteen (14) licensed
93 programs and the West Virginia Coalition Against Domestic
94 Violence (WVCADV). The balance remaining in the
95 appropriation for Grants for Licensed Domestic Violence

96 Programs and Statewide Prevention (fund 0403, appropriation
97 75000), shall be distributed according to the formula established
98 by the Family Protection Services Board.

99 The above appropriation for Children’s Trust Fund –
100 Transfer (fund 0403, appropriation 95100) shall be transferred
101 to the Children’s Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*66 - Department of Military Affairs and Public Safety –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2017 Org 0601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 715,873
3	Unclassified (R).	09900	22,142
4	Current Expenses.	13000	107,158
5	Repairs and Alterations.	06400	7,572
6	Equipment.	07000	3,000
7	Fusion Center (R).	46900	537,665
8	Other Assets.	69000	3,000
9	Directed Transfer.	70000	32,000
10	BRIM Premium.	91300	9,404
11	WV Fire and EMS Survivor		
12	Benefit (R).	93900	250,000
13	Homeland State Security		
14	Administrative Agency (R).	95300	<u>535,850</u>
15	Total.		\$ 2,223,664

16 Any unexpended balances remaining in the appropriations
17 for Unclassified (fund 0430, appropriation 09900), Fusion

18 Center (fund 0430, appropriation 46900), Substance Abuse
 19 Program – Surplus (fund 0430, appropriation 69600), Justice
 20 Reinvestment Training – Surplus (fund 0430, appropriation
 21 69900), WV Fire and EMS Survivor Benefit (fund 0430,
 22 appropriation 93900), and Homeland State Security
 23 Administrative Agency (fund 0430, appropriation 95300) at the
 24 close of the fiscal year 2016 are hereby reappropriated for
 25 expenditure during the fiscal year 2017, with the exception of
 26 fund 0430, fiscal year 2016, appropriation 46900 (\$7,122), fund
 27 0430, fiscal year 2016, appropriation 93900 (\$200,000), and
 28 fund 0430, fiscal year 2016, appropriation 95300 (\$7,123) which
 29 shall expire on June 30, 2016.

30 The above appropriation for Directed Transfer (fund 0430,
 31 appropriation 70000) shall be transferred to the
 32 Law-Enforcement, Safety and Emergency Worker Funeral
 33 Expense Payment Fund (fund 6003).

*67 - Adjutant General –
 State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2017 Org 0603

1	Unclassified (R).....	09900	\$	14,410,434
2	College Education Fund.....	23200		0
3	Mountaineer Challenge Academy..	70900		0
4	Armory Board Transfer.....	70015		0
5	Military Authority.....	74800		0
6	Total.....		\$	14,410,434

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0433, appropriation 09900) at the close of the
 9 fiscal year 2016 is hereby reappropriated for expenditure during
 10 the fiscal year 2017, with the exception of fund 0433, fiscal year

11 2016, appropriation 09900 (\$599,750) which shall expire on
12 June 30, 2016.

13 From the above appropriations an amount approved by the
14 Adjutant General and the secretary of Military Affairs and Public
15 Safety may be transferred to the State Armory Board for
16 operation and maintenance of National Guard Armories.

17 The adjutant general shall have the authority to transfer
18 between appropriations.

19 From the above appropriation and other state and federal
20 funding, the Adjutant General shall provide an amount not less
21 than \$4,500,000 to the Mountaineer Challenge Academy to
22 meet anticipated program demand.

*68 - Adjutant General –
Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2017 Org 0603

1	Personal Services and Employee		
2	Benefits.	00100	\$ 100,000
3	Current Expenses.	13000	<u>64,280</u>
4	Total.		\$ 164,280

69 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2017 Org 0605

1	Personal Services and Employee		
2	Benefits.	00100	\$ 385,459
3	Current Expenses.	13000	218,694
4	Salaries of Members of		
5	West Virginia Parole Board. . .	22700	597,865

6	BRIM Premium.	91300		<u>4,712</u>
7	Total.		\$	1,206,730

8 The above appropriation for Salaries of Members of West
 9 Virginia Parole Board (fund 0440, appropriation 22700) includes
 10 funding for salary, annual increment (as provided for in W.Va.
 11 Code §5-5-1), and related employee benefits of board members.

*70 - Division of Homeland Security and
 Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2017 Org 0606

1	Personal Services and Employee			
2	Benefits.	00100	\$	548,175
3	Unclassified.	09900		28,157
4	Current Expenses.	13000		114,611
5	Repairs and Alterations.	06400		1,000
6	Radiological Emergency			
7	Preparedness.	55400		17,452
8	Federal Funds/Grant Match (R).	74900		664,247
9	Mine and Industrial Accident Rapid			
10	Response Call Center.	78100		462,189
11	Early Warning Flood System (R).	87700		479,006
12	BRIM Premium.	91300		18,811
13	WVU Charleston Poison			
14	Control Hotline.	94400		<u>727,492</u>
15	Total.		\$	3,061,140

16 Any unexpended balances remaining in the appropriations
 17 for Federal Funds/Grant Match (fund 0443, appropriation
 18 74900), Early Warning Flood System (fund 0443, appropriation
 19 87700), and Disaster Mitigation (fund 0443, appropriation
 20 95200) at the close of the fiscal year 2016 are hereby
 21 reappropriated for expenditure during the fiscal year 2017, with

22 the exception of fund 0443, fiscal year 2016, appropriation
 23 87700 (\$36,879) which shall expire on June 30, 2016.

*71 - Division of Corrections –
 Central Office*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2017 Org 0608

1	Personal Services and Employee		
2	Benefits.	00100	\$ 610,909
3	Current Expenses.	13000	<u>1,800</u>
4	Total.		\$ 612,709

*72 - Division of Corrections –
 Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2017 Org 0608

1	Employee Benefits.	01000	\$ 1,258,136
2	Children's Protection Act (R).	09000	938,437
3	Unclassified (R)	09900	1,623,738
4	Current Expenses (R).	13000	23,132,313
5	Facilities Planning and		
6	Administration (R).	38600	1,166,627
7	Charleston Correctional Center.	45600	3,126,532
8	Beckley Correctional Center.	49000	1,815,364
9	Huntington Work Release Center.	49500	1,070,058
10	Anthony Correctional Center	50400	5,040,533
11	Huttonsville Correctional Center	51400	20,998,029
12	Northern Correctional Center	53400	6,938,571
13	Inmate Medical Expenses (R).	53500	21,226,064
14	Pruntytown Correctional Center	54300	7,060,326
15	Corrections Academy.	56900	1,441,819
16	Information Technology Services.	59901	3,341,064

17	Martinsburg Correctional Center... 66300	3,538,534
18	Parole Services... 68600	5,131,198
19	Special Services 68700	6,122,439
20	Investigative Services. 71600	3,151,604
21	Capital Outlay and	
22	Maintenance (R). 75500	2,000,000
23	Salem Correctional Center... 77400	9,943,952
24	McDowell County Correctional	
25	Center. 79000	1,949,983
26	Stevens Correctional Center 79100	6,474,500
27	Parkersburg Correctional Center. . . 82800	2,442,670
28	St. Mary's Correctional Center . . . 88100	12,636,324
29	Denmar Correctional Center. 88200	4,414,286
30	Ohio County Correctional Center. . 88300	1,738,335
31	Mt. Olive Correctional Complex... 88800	19,684,203
32	Lakin Correctional Center... 89600	8,911,795
33	BRIM Premium. 91300	<u>829,190</u>
34	Total..	\$ 189,146,624

35 Any unexpended balances remaining in the appropriations
36 for Children's Protection Act (fund 0450, appropriation 09000),
37 Unclassified – Surplus (fund 0450, appropriation 09700),
38 Current Expenses (fund 0450, appropriation 13000), Facilities
39 Planning and Administration (fund 0450, appropriation 38600),
40 Inmate Medical Expenses (fund 0450, appropriation 53500),
41 Capital Improvements – Surplus (fund 0450, appropriation
42 66100), Capital Outlay, Repairs and Equipment – Surplus (fund
43 0450, appropriation 67700), Capital Outlay and Maintenance
44 (fund 0450, appropriation 75500), Security System
45 Improvements – Surplus (fund 0450, appropriation 75501), and
46 Operating Expenses – Surplus (fund 0450, appropriation 77900)
47 at the close of the fiscal year 2016 are hereby reappropriated for
48 expenditure during the fiscal year 2017, with the exception of
49 fund 0450, fiscal year 2016, appropriation 13000 (\$8,500,000)
50 which shall expire on June 30, 2016.

51 The commissioner of corrections shall have the authority to
 52 transfer between appropriations to the individual correctional
 53 units above and may transfer funds from the individual
 54 correctional units to Current Expenses (fund 0450, appropriation
 55 13000) or Inmate Medical Expenses (fund 0450, appropriation
 56 53500).

57 From the above appropriation to Unclassified (fund 0450,
 58 appropriation 09900), on July 1, 2016, the sum of \$300,000 shall
 59 be transferred to the Department of Agriculture – Land Division
 60 – Farm Operating Fund (1412) as advance payment for the
 61 purchase of food products; actual payments for such purchases
 62 shall not be required until such credits have been completely
 63 expended.

64 From the above appropriation to Current Expenses (fund
 65 0450, appropriation 13000) payment shall be made to house
 66 Division of Corrections inmates in federal, county, and/or
 67 regional jails.

68 Any realized savings from the Energy Savings Contract for
 69 Mt. Olive Correctional Complex, Huttonsville Correction
 70 Center, Pruntytown Correctional Center, or Denmark Correctional
 71 Center may be transferred from the listed individual correctional
 72 units to Facilities Planning and Administration (fund 0450,
 73 appropriation 38600).

73 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 59,000,000
3	Children’s Protection Act.	09000	954,509
4	Current Expenses.	13000	10,403,272
5	Repairs and Alterations.	06400	450,523

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6	Vehicle Purchase. 45100	2,000,000
7	Barracks Lease Payments. 55600	246,478
8	Communications and Other	
9	Equipment (R). 55800	1,268,968
10	Trooper Retirement Fund. 60500	4,035,203
11	Handgun Administration Expense.. 74700	82,692
12	Capital Outlay and	
13	Maintenance (R). 75500	250,000
14	Retirement Systems –	
15	Unfunded Liability. 77500	16,875,000
16	Automated Fingerprint	
17	Identification System. 89800	725,771
18	BRIM Premium. 91300	<u>4,946,608</u>
19	Total.	\$ 101,239,024

20 Any unexpended balances remaining in the appropriations
21 for Communications and Other Equipment (fund 0453,
22 appropriation 55800), and Capital Outlay and Maintenance (fund
23 0453, appropriation 75500) at the close of the fiscal year 2016
24 are hereby reappropriated for expenditure during the fiscal year
25 2017, with the exception of fund 0453, fiscal year 2016,
26 appropriation 55800 (\$1,162,002) which shall expire on June 30,
27 2016.

28 From the above appropriation for Personal Services and
29 Employee Benefits (fund 0453, appropriation 00100), an amount
30 not less than \$25,000 shall be expended to offset the costs
31 associated with providing police services for the West Virginia
32 State Fair.

74 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2017 Org 0619

1	Current Expenses. 13000	\$	66,661
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75 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 534,684
3	Current Expenses.	13000	132,696
4	Repairs and Alterations.	06400	1,804
5	Child Advocacy Centers (R).	45800	1,561,959
6	Community Corrections (R).	56100	7,282,896
7	Statistical Analysis Program.	59700	46,724
8	Sexual Assault Forensic		
9	Examination Commission.	71400	76,704
10	Qualitative Analysis and		
11	Training for Youth		
12	Services (R).	76200	362,497
13	Law Enforcement Professional		
14	Standards.	83800	155,464
15	BRIM Premium.	91300	<u>1,421</u>
16	Total.		\$ 10,156,849

17 Any unexpended balances remaining in the appropriations
18 for Child Advocacy Centers (fund 0546, appropriation 45800),
19 Community Corrections (fund 0546, appropriation 56100), and
20 Qualitative Analysis and Training for Youth Services (fund
21 0546, appropriation 76200) at the close of the fiscal year 2016
22 are hereby reappropriated for expenditure during the fiscal year
23 2017, with the exception of fund 0546, fiscal year 2016,
24 appropriation 45800 (\$72,000), fund 0546, fiscal year 2016,
25 appropriation 56100 (\$178,000), and fund 0546, fiscal year
26 2016, appropriation 76200 (\$200,000) which shall expire on
27 June 30, 2016.

28 From the above appropriation for Child Advocacy Centers
29 (fund 0546, appropriation 45800), the division may retain an

30 amount not to exceed four percent of the appropriation for
31 administrative purposes.

76 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2017 Org 0621

1	Statewide Reporting Centers.	26200	\$	6,309,696
2	Robert L. Shell Juvenile Center.	26700		1,969,807
3	Resident Medical Expenses.	53501		4,390,551
4	Central Office	70100		2,324,562
5	Capital Outlay and			
6	Maintenance (R).	75500		250,000
7	Gene Spadaro Juvenile Center	79300		2,141,284
8	BRIM Premium.	91300		96,187
9	Kenneth Honey Rubenstein			
10	Juvenile Center (R)	98000		4,952,035
11	Vicki Douglas Juvenile Center.	98100		1,882,647
12	Northern Regional Juvenile Center.	98200		2,876,302
13	Lorrie Yeager Jr. Juvenile Center.	98300		1,922,009
14	Sam Perdue Juvenile Center	98400		2,015,925
15	Tiger Morton Center	98500		2,127,696
16	Donald R. Kuhn Juvenile Center	98600		4,084,883
17	J.M. "Chick" Buckbee			
18	Juvenile Center	98700		<u>2,030,199</u>
19	Total.		\$	<u>39,373,783</u>

20 Any unexpended balances remaining in the appropriations
21 for Capital Outlay and Maintenance (fund 0570, appropriation
22 75500) and Kenneth Honey Rubenstein Juvenile Center (fund
23 0570, appropriation 98000) at the close of the fiscal year 2016
24 are hereby reappropriated for expenditure during the fiscal year
25 2017.

26 From the above appropriations, on July 1, 2016, the sum of
 27 \$50,000 shall be transferred to the Department of Agriculture –
 28 Land Division – Farm Operating Fund (1412) as advance
 29 payment for the purchase of food products; actual payments for
 30 such purchases shall not be required until such credits have been
 31 completely expended.

32 The director of Juvenile Services shall have the authority to
 33 transfer between appropriations to the individual juvenile centers
 34 above and may transfer funds from the individual juvenile
 35 centers to Resident Medical Expenses (fund 0570, appropriation
 36 53501).

77 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2017 Org 0622

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,678,975
3	Unclassified (R).	09900	21,991
4	Current Expenses.	13000	139,232
5	Repairs and Alterations.	06400	8,500
6	Equipment (R).	07000	64,171
7	BRIM Premium.	91300	<u>9,969</u>
8	Total.		\$ 2,922,838

9 Any unexpended balances remaining in the appropriations
 10 for Equipment (fund 0585, appropriation 07000), and
 11 Unclassified (fund 0585, appropriation 09900) at the close of the
 12 fiscal year 2016 are hereby reappropriated for expenditure
 13 during the fiscal year 2017.

DEPARTMENT OF REVENUE

78 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2017 Org 0701

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 502,741
3	Unclassified.....	09900	6,121
4	Current Expenses.....	13000	92,730
5	Repairs and Alterations.....	06400	1,262
6	Equipment.....	07000	8,000
7	Other Assets.....	69000	<u>500</u>
8	Total.....		\$ 611,354

9 Any unexpended balance remaining in the appropriation for
10 Unclassified – Total (fund 0465, appropriation 09600) at the
11 close of the fiscal year 2016 is hereby reappropriated for
12 expenditure during the fiscal year 2017.

79 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits (R).....	00100	\$ 16,380,222
3	Unclassified (R).....	09900	224,578
4	Current Expenses (R).....	13000	5,749,690
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	50,000
7	Multi State Tax Commission.....	65300	77,958
8	Other Assets.....	69000	10,000
9	BRIM Premium.....	91300	<u>13,000</u>
10	Total.....		\$ 22,515,448

11 Any unexpended balances remaining in the appropriations
12 for Personal Services and Employee Benefits (fund 0470,
13 appropriation 00100), Unclassified (fund 0470, appropriation

14 09900), Current Expenses (fund 0470, appropriation 13000), and
 15 GIS Development Project (fund 0470, appropriation 56200) at
 16 the close of the fiscal year 2016 are hereby reappropriated for
 17 expenditure during the fiscal year 2017, with the exception of
 18 fund 0470, fiscal year 2016, appropriation 00100 (\$400,000) and
 19 fund 0470, fiscal year 2016, appropriation 13000 (\$535,745)
 20 which shall expire on June 30, 2016.

80 - State Budget Office
 (WV Code Chapter 11B)

Fund 0595 FY 2017 Org 0703

1	Personal Services and Employee			
2	Benefits.	00100	\$	648,378
3	Unclassified (R).	09900		6,629
4	Current Expenses.	13000		3,399
5	BRIM Premium.	91300		3,348
6	Total.		\$	661,754

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0595, appropriation 09900) at the close of the
 9 fiscal year 2016 is hereby reappropriated for expenditure during
 10 the fiscal year 2017.

81 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2017 Org 0709

1	Personal Services and Employee			
2	Benefits.	00100	\$	428,077
3	Current Expenses (R).	13000		103,233
4	Unclassified.	09900		5,380
5	BRIM Premium.	91300		2,618
6	Total.		\$	539,308

7 Any unexpended balance remaining in the appropriation for
 8 Current Expenses (fund 0593, appropriation 13000) at the close
 9 of the fiscal year 2016 is hereby reappropriated for expenditure
 10 during the fiscal year 2017.

*82 - Division of Professional and Occupational Licenses –
 State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2017 Org 0933

1	Personal Services and Employee		
2	Benefits.	00100	\$ 9,177
3	Current Expenses.	13000	<u>28,385</u>
4	Total.		\$ 37,562

DEPARTMENT OF TRANSPORTATION

83 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2017 Org 0804

1	Personal Services and Employee		
2	Benefits.	00100	\$ 316,636
3	Current Expenses.	13000	330,469
4	Other Assets (R)..	69000	1,335,760
5	BRIM Premium.	91300	<u>173,966</u>
6	Total.		\$ 2,156,831

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0506, appropriation 09900) and Other
 9 Assets (fund 0506, appropriation 69000) at the close of the fiscal
 10 year 2016 are hereby reappropriated for expenditure during the
 11 fiscal year 2017, with the exception of fund 0506, fiscal year
 12 2016, appropriation 69000 (\$25,000) which shall expire on June
 13 30, 2016.

84 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2017 Org 0805

1	Equipment (R).....	07000	\$	532,339
2	Current Expenses (R).....	13000		1,804,949
3	Buildings (R).....	25800		5,281
4	Other Assets (R).....	69000		<u>5,000</u>
5	Total.....		\$	2,347,569

6 Any unexpended balances remaining in the appropriations
7 for Equipment (fund 0510, appropriation 07000), Current
8 Expenses (fund 0510, appropriation 13000), Buildings (fund
9 0510, appropriation 25800) and Other Assets (fund 0510,
10 appropriation 69000) at the close of the fiscal year 2016 are
11 hereby reappropriated for expenditure during the fiscal year
12 2017, with the exception of fund 0510, fiscal year 2016,
13 appropriation 07000 (\$58,429), fund 0510, fiscal year 2016,
14 appropriation 25800 (\$20,281), and fund 0510, fiscal year 2016,
15 appropriation 69000 (\$50,000) which shall expire on June 30,
16 2016.

85 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2017 Org 0806

1	Personal Services and Employee			
2	Benefits.....	00100	\$	0
3	Current Expenses.....	13000		0
4	Repairs and Alterations.....	06400		0
5	BRIM Premium.....	91300		<u>0</u>
6	Total.....		\$	0

86 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2017 Org 0807

1	Personal Services and Employee		
2	Benefits.	00100	\$ 213,368
3	Current Expenses (R)..	13000	734,535
4	Repairs and Alterations.	06400	100
5	Civil Air Patrol..	23400	155,095
6	BRIM Premium.	91300	<u>3,045</u>
7	Total..		\$ 1,106,143

8 Any unexpended balance remaining in the appropriations for
9 Unclassified (fund 0582, appropriation 09900) and Current
10 Expenses (fund 0582, appropriation 13000) at the close of the
11 fiscal year 2016 are hereby reappropriated for expenditure
12 during the fiscal year 2017, with the exception of fund 0582,
13 fiscal year 2016, appropriation 13000 (\$73,169) which shall
14 expire on June 30, 2016.

15 From the above appropriation for Current Expenses (fund
16 0582, appropriation 13000), the sum of \$120,000 shall be
17 distributed equally to each of the twelve local Civil Air Patrol
18 Squadrons.

DEPARTMENT OF VETERANS' ASSISTANCE

87 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2017 Org 0613

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,820,635

2016]	HOUSE OF DELEGATES	2415
3	Unclassified.	09900 20,000
4	Current Expenses.	13000 323,587
5	Repairs and Alterations.	06400 5,000
6	Veterans' Field Offices.	22800 248,345
7	Veterans' Nursing Home (R).	28600 5,577,251
8	Veterans' Toll Free Assistance	
9	Line.	32800 2,015
10	Veterans' Reeducation	
11	Assistance (R).	32900 29,502
12	Veterans' Grant Program (R).	34200 100,000
13	Veterans' Grave Markers.	47300 10,254
14	Veterans' Transportation.	48500 625,000
15	Veterans Outreach Programs.	61700 160,743
16	Memorial Day Patriotic Exercise. . .	69700 20,000
17	Veterans Cemetery.	80800 377,537
18	BRIM Premium.	91300 23,860
19	Total.	\$ 9,343,729

20 Any unexpended balances remaining in the appropriations
21 for Veterans' Nursing Home (fund 0456, appropriation 28600),
22 Veterans' Reeducation Assistance (fund 0456, appropriation
23 32900), Veterans' Grant Program (fund 0456, appropriation
24 34200), Veterans' Bonus – Surplus (fund 0456, appropriation
25 34400), Veterans' Bonus (fund 0456, appropriation 48300), and
26 Educational Opportunities for Children of Deceased Veterans
27 (fund 0456, appropriation 85400) at the close of the fiscal year
28 2016 are hereby reappropriated for expenditure during the fiscal
29 year 2017, with the exception of fund 0456, fiscal year 2016,
30 appropriation 28600 (\$342,977) which shall expire on June 30,
31 2016.

*88 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2017 Org 0618

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,102,223
3	Current Expenses.	13000	<u>67,980</u>
4	Total.		\$ 1,170,203

BUREAU OF SENIOR SERVICES

89 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2017 Org 0508

1	Transfer to Division of		
2	Human Services for Health Care		
3	and Title XIX Waiver for		
4	Senior Citizens.	53900	\$ 14,113,504

5 The above appropriation for Transfer to Division of Human
6 Services for Health Care and Title XIX Waiver for Senior
7 Citizens (fund 0420, appropriation 53900) along with the federal
8 moneys generated thereby shall be used for reimbursement for
9 services provided under the program.

10 The above appropriation is in addition to funding provided
11 in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY
AND TECHNICAL COLLEGE EDUCATION**

*90 - West Virginia Council for
Community and Technical College Education –
Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2017 Org 0420

1	West Virginia Council for Community		
2	and Technical Education (R)... 39200	\$	756,232
3	Transit Training Partnership. 78300		40,217
4	Community College Workforce		
5	Development (R)..... 87800		806,048
6	College Transition Program..... 88700		292,718
7	West Virginia Advance Workforce		
8	Development (R)..... 89300		3,269,964
9	Technical Program		
10	Development (R)..... 89400		<u>1,895,214</u>
11	Total.....	\$	7,060,393

12 Any unexpended balances remaining in the appropriations
13 for West Virginia Council for Community and Technical
14 Education (fund 0596, appropriation 39200), Capital
15 Improvements – Surplus (fund 0596, appropriation 66100),
16 Community College Workforce Development (fund 0596,
17 appropriation 87800), West Virginia Advance Workforce
18 Development (fund 0596, appropriation 89300), and Technical
19 Program Development (fund 0596, appropriation 89400) at the
20 close of the fiscal year 2016 are hereby reappropriated for
21 expenditure during the fiscal year 2017, with the exception of
22 fund 0596, fiscal year 2016, appropriation 39200 (\$10,030), fund
23 0596, fiscal year 2016, appropriation 89300 (\$164,577), and
24 fund 0596, fiscal year 2016, appropriation 89400 (\$89,384)
25 which shall expire on June 30, 2016.

26 From the above appropriation for the Community College
27 Workforce Development (fund 0596, appropriation 87800),
28 \$200,000 shall be expended on the Mine Training Program in
29 Southern West Virginia.

30 Included in the above appropriation for West Virginia
31 Advance Workforce Development (fund 0596, appropriation

32 89300) is \$200,000 to be used exclusively for advanced
33 manufacturing and energy industry specific training programs.

91 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2017 Org 0444

1 Mountwest Community and
2 Technical College. 48700 \$ 5,569,533

92 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2017 Org 0445

1 New River Community and
2 Technical College. 35800 \$ 5,499,133

93 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2017 Org 0446

1 Pierpont Community and
2 Technical College. 93000 \$ 7,323,810

94 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2017 Org 0447

1 Blue Ridge Community and
2 Technical College. 88500 \$ 4,480,111

95 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2017 Org 0464

1	West Virginia University –			
2	Parkersburg.	47100	\$	9,521,771

96 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2017 Org 0487

1	Southern West Virginia Community and			
2	Technical College.	44600	\$	7,991,778

97 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2017 Org 0489

1	West Virginia Northern Community and			
2	Technical College.	44700	\$	6,898,459

98 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2017 Org 0492

1	Eastern West Virginia Community and			
2	Technical College.	41200	\$	1,834,647

99 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2017 Org 0493

1	BridgeValley Community and		
2	Technical College.	71700	\$ 7,500,925

HIGHER EDUCATION POLICY COMMISSION

*100 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2017 Org 0441

1	Personal Services and		
2	Employee Benefits.	00100	\$ 2,438,271
3	Current Expenses.	13000	165,893
4	Higher Education Grant Program. .	16400	39,019,864
5	Tuition Contract Program (R). . . .	16500	1,249,555
6	Underwood-Smith Scholarship		
7	Program-Student Awards. . . .	16700	328,349
8	Facilities Planning and		
9	Administration (R).	38600	1,821,849
10	PROMISE Scholarship – Transfer..	80000	18,500,000
11	HEAPS Grant Program (R).	86700	5,007,764
12	BRIM Premium.	91300	<u>15,708</u>
13	Total.		\$ 68,547,253

14 Any unexpended balances remaining in the appropriations
 15 for Unclassified – Surplus (fund 0589, appropriation 09700),
 16 Tuition Contract Program (fund 0589, appropriation 16500),
 17 Facilities Planning and Administration (fund 0589, appropriation
 18 38600), Capital Improvements – Surplus (fund 0589,

19 appropriation 66100), Capital Outlay and Maintenance (fund
 20 0589, appropriation 75500), and HEAPS Grant Program (fund
 21 0589, appropriation 86700) at the close of the fiscal year 2016
 22 are hereby reappropriated for expenditure during the fiscal year
 23 2017, with the exception of fund 0589, fiscal year 2016,
 24 appropriation 38600 (\$75,910) which shall expire on June 30,
 25 2016.

26 The above appropriation for Facilities Planning and
 27 Administration (fund 0589, appropriation 38600) is for
 28 operational expenses of the West Virginia Education, Research
 29 and Technology Park between construction and full occupancy.

30 The above appropriation for Higher Education Grant
 31 Program (fund 0589, appropriation 16400) shall be transferred
 32 to the Higher Education Grant Fund (fund 4933, org 0441)
 33 established by W.Va. Code §18C-5-3.

34 The above appropriation for Underwood-Smith Scholarship
 35 Program-Student Awards (fund 0589, appropriation 16700) shall
 36 be transferred to the Underwood-Smith Teacher Scholarship and
 37 Loan Assistance Fund (fund 4922, org 0441) established by
 38 W.Va. Code §18C-4-1.

39 The above appropriation for PROMISE Scholarship –
 40 Transfer (fund 0589, appropriation 80000) shall be transferred
 41 to the PROMISE Scholarship Fund (fund 4296, org 0441)
 42 established by W.Va. Code §18C-7-7.

*101 - Higher Education Policy Commission –
 Administration –
 West Virginia Network for Educational Telecomputing
 (WVNET)*

(WV Code Chapter 18B)

Fund 0551 FY 2017 Org 0495

1	WVNET.....	16900	\$	1,654,572
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102 - West Virginia University –
School of Medicine
Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2017 Org 0463

1	WVU School of Health Science –		
2	Eastern Division.	05600	\$ 2,248,472
3	WVU – School of Health		
4	Sciences.	17400	15,515,841
5	WVU – School of Health Sciences –		
6	Charleston Division.	17500	2,312,518
7	Rural Health Outreach		
8	Programs (R).	37700	170,125
9	West Virginia University School of		
10	Medicine		
11	BRIM Subsidy.	46000	<u>1,161,281</u>
12	Total.		\$ 21,408,237

13 Any unexpended balance remaining in the appropriations for
14 Rural Health Outreach Programs (fund 0343, appropriation
15 37700), and Educational Enhancements – Surplus (fund 0343,
16 appropriation 92700) at the close of the fiscal year 2016 are
17 hereby reappropriated for expenditure during the fiscal year
18 2017, with the exception of fund 0343, fiscal year 2016,
19 appropriation 37700 (\$7,029) which shall expire on June 30,
20 2016.

21 The above appropriation for Rural Health Outreach
22 Programs (fund 0343, appropriation 37700) includes rural health
23 activities and programs; rural residency development and
24 education; and rural outreach activities.

25 The above appropriation for West Virginia University
26 School of Medicine BRIM Subsidy (fund 0343, appropriation

27 46000) shall be paid to the Board of Risk and Insurance
 28 Management as a general revenue subsidy against the “Total
 29 Premium Billed” to the institution as part of the full cost of their
 30 malpractice insurance coverage.

*103 - West Virginia University –
 General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2017 Org 0463

1	West Virginia University.....	45900	\$	97,819,653
2	Jackson’s Mill (R).	46100		239,505
3	West Virginia University Institute of			
4	Technology.....	47900		7,987,811
5	State Priorities – Brownfield			
6	Professional Development (R).	53100		337,503
7	West Virginia University –			
8	Potomac State.	99400		<u>3,921,488</u>
9	Total..		\$	110,305,960

10 Any unexpended balances remaining in the appropriations
 11 for Jackson’s Mill (fund 0344, appropriation 46100), and State
 12 Priorities – Brownfield Professional Development (fund 0344,
 13 appropriation 53100) at the close of the fiscal year 2016 are
 14 hereby reappropriated for expenditure during the fiscal year
 15 2017, with the exception of fund 0344, fiscal year 2016,
 16 appropriation 46100 (\$9,902) and fund 0344, fiscal year 2016,
 17 appropriation 53100 (\$13,931) which shall expire on June 30,
 18 2016.

*104 - Marshall University –
 School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2017 Org 0471

1	Marshall Medical School.....	17300	\$	12,179,256
2	Rural Health Outreach			
3	Programs (R).....	37700		167,616
4	Forensic Lab.	37701		241,438
5	Center for Rural Health.	37702		160,166
6	Marshall University Medical School			
7	BRIM Subsidy.....	44900		842,290
8	Total.....		\$	13,590,766

9 Any unexpended balance remaining in the appropriation for
10 Rural Health Outreach Program (fund 0347, appropriation
11 37700) at the close of the fiscal year 2016 is hereby
12 reappropriated for expenditure during the fiscal year 2017, with
13 the exception of fund 0347, fiscal year 2016, appropriation
14 37700 (\$6,984) which shall expire on June 30, 2016.

15 The above appropriation for Rural Health Outreach
16 Programs (fund 0347, appropriation 37700) includes rural health
17 activities and programs; rural residency development and
18 education; and rural outreach activities.

19 The above appropriation for Marshall University Medical
20 School BRIM Subsidy (fund 0347, appropriation 44900) shall be
21 paid to the Board of Risk and Insurance Management as a
22 general revenue subsidy against the "Total Premium Billed" to
23 the institution as part of the full cost of their malpractice
24 insurance coverage.

*105 - Marshall University –
General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2017 Org 0471

1	Marshall University.....	44800	\$	45,926,078
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2	Luke Lee Listening Language and		
3	Learning Lab.	44801	102,076
4	Vista E-Learning (R).	51900	249,089
5	State Priorities – Brownfield		
6	Professional Development (R).	53100	334,364
7	Marshall University Graduate College		
8	Writing Project (R).	80700	20,737
9	WV Autism Training Center (R).	93200	<u>1,795,300</u>
10	Total.		\$ 48,427,644

11 Any unexpended balances remaining in the appropriations
 12 for Vista E-Learning (fund 0348, appropriation 51900), State
 13 Priorities – Brownfield Professional Development (fund 0348,
 14 appropriation 53100), Marshall University Graduate College
 15 Writing Project (fund 0348, appropriation 80700), and WV
 16 Autism Training Center (fund 0348, appropriation 93200) at the
 17 close of fiscal year 2016 are hereby reappropriated for
 18 expenditure during the fiscal year 2017, with the exception of
 19 fund 0348, fiscal year 2016, appropriation 51900 (\$10,368), fund
 20 0348, fiscal year 2016, appropriation 53100 (\$13,931), fund
 21 0348, fiscal year 2016, appropriation 80700 (\$864), and fund
 22 0348, fiscal year 2016, appropriation 93200 (\$73,873) which
 23 shall expire on June 30, 2016.

104 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2017 Org 0476

1	West Virginia School of		
2	Osteopathic Medicine.	17200	\$ 6,798,239
3	Rural Health Outreach		
4	Programs (R).	37700	168,354
5	West Virginia School of		
6	Osteopathic Medicine		
7	BRIM Subsidy.	40300	144,721

8	Rural Health Initiative –		
9	Medical Schools Support.	58100	404,968
10	Total..		\$ 7,516,282

11 Any unexpended balance remaining in the appropriation for
 12 Rural Health Outreach Programs (fund 0336, appropriation
 13 37700) at the close of fiscal year 2016 is hereby reappropriated
 14 for expenditure during the fiscal year 2017, with the exception
 15 of fund 0336, fiscal year 2016, appropriation 37700 (\$7,015)
 16 which shall expire on June 30, 2016.

17 The above appropriation for Rural Health Outreach
 18 Programs (fund 0336, appropriation 37700) includes rural health
 19 activities and programs; rural residency development and
 20 education; and rural outreach activities.

21 The above appropriation for West Virginia School of
 22 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
 23 40300) shall be paid to the Board of Risk and Insurance
 24 Management as a general revenue subsidy against the “Total
 25 Premium Billed” to the institution as part of the full cost of their
 26 malpractice insurance coverage.

*105 - Marshall University –
 General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2017 Org 0471

1	Marshall University.	44800	\$ 45,926,078
2	Luke Lee Listening Language and		
3	Learning Lab.	44801	102,076
4	Vista E-Learning (R).	51900	249,089
5	State Priorities – Brownfield		
6	Professional Development (R).	53100	334,364
7	Marshall University Graduate		
8	College Writing Project (R).	80700	20,737

9	WV Autism Training Center (R)... 93200	1,795,300
10	Total..	\$ 48,427,644

11 Any unexpended balances remaining in the appropriations
 12 for Vista E-Learning (fund 0348, appropriation 51900), State
 13 Priorities – Brownfield Professional Development (fund 0348,
 14 appropriation 53100), Marshall University Graduate College
 15 Writing Project (fund 0348, appropriation 80700), and WV
 16 Autism Training Center (fund 0348, appropriation 93200) at the
 17 close of fiscal year 2016 are hereby reappropriated for
 18 expenditure during the fiscal year 2017, with the exception of
 19 fund 0348, fiscal year 2016, appropriation 51900 (\$10,368) and
 20 fund 0348, fiscal year 2016, appropriation 53100 (\$13,931)
 21 which shall expire on June 30, 2016.

105 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2017 Org 0476

1	West Virginia School of	
2	Osteopathic Medicine. 17200	\$ 6,798,239
3	Rural Health Outreach	
4	Programs (R)... 37700	168,354
5	West Virginia School of	
6	Osteopathic Medicine	
7	BRIM Subsidy... 40300	144,721
8	Rural Health Initiative –	
9	Medical Schools Support. 58100	404,968
10	Total..	\$ 7,516,282

11 Any unexpended balance remaining in the appropriation for
 12 Rural Health Outreach Programs (fund 0336, appropriation
 13 37700) at the close of fiscal year 2016 is hereby reappropriated
 14 for expenditure during the fiscal year 2017, with the exception

15 of fund 0336, fiscal year 2016, appropriation 37700 (\$7,015)
16 which shall expire on June 30, 2016.

17 The above appropriation for Rural Health Outreach
18 Programs (fund 0336, appropriation 37700) includes rural health
19 activities and programs; rural residency development and
20 education; and rural outreach activities.

21 The above appropriation for West Virginia School of
22 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
23 40300) shall be paid to the Board of Risk and Insurance
24 Management as a general revenue subsidy against the “Total
25 Premium Billed” to the institution as part of the full cost of their
26 malpractice insurance coverage.

107 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2017 Org 0482

1 Bluefield State College. 40800 \$ 5,636,862

106 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2017 Org 0483

1 Concord University. 41000 \$ 8,674,596

109 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2017 Org 0484

1 Fairmont State University. 41400 \$ 15,277,769

2016]

HOUSE OF DELEGATES

2429

110 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2017 Org 0485

1 Glenville State College. 42800 \$ 5,891,397

111 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2017 Org 0486

1 Shepherd University. 43200 \$ 9,551,994

112 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2017 Org 0488

1 West Liberty University. 43900 \$ 7,956,371

113 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2017 Org 0490

1 West Virginia State University. . . 44100 \$ 10,003,071

2 West Virginia State University

3 Land Grant Match. 95600 1,584,947

4 Total. \$ 11,588,018

5 Total TITLE II, Section 1 —

6 General Revenue

7 (Including claims against the state).. . \$4,326,294,000

1 **Sec. 2. Appropriations from state road fund.** — From the

2 state road fund there are hereby appropriated conditionally upon

- 3 the fulfillment of the provisions set forth in Article 2, Chapter
 4 11B of the Code the following amounts, as itemized, for
 5 expenditure during the fiscal year 2017.

DEPARTMENT OF TRANSPORTATION

114 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2017 Org 0802

	Appro- p-riation	State Road Fund
1 Personal Services and		
2 Employee Benefits.	00100	\$ 23,278,949
3 Current Expenses.	13000	16,191,004
4 Repairs and Alterations.	06400	144,000
5 Equipment.	07000	1,080,000
6 Buildings.	25800	10,000
7 Other Assets.	69000	2,600,000
8 BRIM Premium.	91300	<u>74,776</u>
9 Total.		\$ 43,378,729

115 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2017 Org 0803

1 Debt Service.	04000	\$ 24,000,000
2 Maintenance.	23700	492,354,000
3 Maintenance, Contract Paving and		
4 Secondary Road Maintenance.	27200	63,000,000
5 Bridge Repair and Replacement.	27300	15,000,000
6 Inventory Revolving.	27500	4,000,000

7	Equipment Revolving.	27600	15,000,000
8	General Operations.	27700	55,995,000
9	Interstate Construction.	27800	100,000,000
10	Other Federal Aid Programs.	27900	432,000,000
11	Appalachian Programs.	28000	120,000,000
12	Nonfederal Aid Construction.	28100	15,000,000
13	Highway Litter Control.	28200	1,727,000
14	Courtesy Patrol.	28201	<u>3,000,000</u>
15	Total.		\$1,341,076,000

16 The above appropriations are to be expended in accordance
17 with the provisions of Chapters 17 and 17C of the code.

18 The commissioner of highways shall have the authority to
19 operate revolving funds within the state road fund for the
20 operation and purchase of various types of equipment used
21 directly and indirectly in the construction and maintenance of
22 roads and for the purchase of inventories and materials and
23 supplies.

24 There is hereby appropriated in addition to the above
25 appropriations, sufficient money for the payment of claims,
26 accrued or arising during this budgetary period, to be paid in
27 accordance with Sections 17 and 18, Article 2, Chapter 14 of the
28 code.

29 It is the intent of the Legislature to capture and match all
30 federal funds available for expenditure on the Appalachian
31 highway system at the earliest possible time. Therefore, should
32 amounts in excess of those appropriated be required for the
33 purposes of Appalachian programs, funds in excess of the
34 amount appropriated may be made available upon
35 recommendation of the commissioner and approval of the
36 Governor. Further, for the purpose of Appalachian programs,
37 funds appropriated by appropriation may be transferred to other
38 appropriations upon recommendation of the commissioner and
39 approval of the Governor.

116 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2017 Org 0808

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,585,201
3	Current Expenses.	13000	338,278
4	Repairs and Alterations.	06400	3,000
5	Equipment.	07000	15,500
6	BRIM Premium.	91300	<u>10,000</u>
7	Total.		\$ 1,951,979
8	Total TITLE II, Section 2 — State Road Fund		
9	(Including claims against the state).. . <u>\$ 1,264387,390,192</u>		

1 **Sec. 3. Appropriations from other funds.** — From the
 2 funds designated there are hereby appropriated conditionally
 3 upon the fulfillment of the provisions set forth in Article 2,
 4 Chapter 11B of the Code the following amounts, as itemized, for
 5 expenditure during the fiscal year 2017.

LEGISLATIVE

117 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2017 Org 2300

		Appro- p riation	Other Funds
1	Personal Services and		
2	Employee Benefits.	00100	\$ 498,020
3	Current Expenses.	13000	133,903
4	Repairs and Alterations.	06400	1,000
5	Economic Loss Claim		
6	Payment Fund.	33400	3,460,125

3	Unclassified.	09900		15,139
4	Current Expenses.	13000		440,291
5	Repairs and Alterations.	06400		2,600
6	Equipment.	07000		426,741
7	Cost of Delinquent Land Sales.	76800		<u>1,341,168</u>
8	Total.		\$	2,868,586

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the necessary amount for the
11 expenditure of funds other than personal services and employee
12 benefits to enable the division to pay the direct expenses relating
13 to land sales as provided in Chapter 11A of the West Virginia
14 Code.

15 The total amount of these appropriations shall be paid from
16 the special revenue fund out of fees and collections as provided
17 by law.

*121 - Auditor's Office –
Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2017 Org 1200

1	Personal Services and Employee			
2	Benefits.	00100	\$	308,087
3	Current Expenses.	13000		62,030
4	Repairs and Alterations.	06400		6,000
5	Equipment.	07000		10,805
6	Other Assets.	69000		50,000
7	Statutory Revenue Distribution.	74100		<u>1,500,000</u>
8	Total.		\$	1,936,922

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the amount necessary to
11 meet the transfer of revenue distribution requirements to provide

12 a proportionate share of rebates back to the general fund of local
13 governments based on utilization of the program in accordance
14 with W.Va. Code §6-9-2b.

*122 - Auditor's Office –
Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2017 Org 1200

1	Personal Services and		
2	Employee Benefits.	00100	\$ 1,882,510
3	Unclassified.	09900	31,866
4	Current Expenses.	13000	838,830
5	Repairs and Alterations.	06400	12,400
6	Equipment.	07000	19,700
7	Other Assets.	69000	<u>673,326</u>
8	Total.		\$ 3,458,632

*123 - Auditor's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2017 Org 1200

1	Current Expenses.	13000	\$ 160,000
2	Other Assets.	69000	<u>100,000</u>
3	Total.		\$ 260,000

4 Fifty percent of the deposits made into this fund shall be
5 transferred to the Treasurer's Office – Technology Support and
6 Acquisition Fund (fund 1329, org 1300) for expenditure for the
7 purposes described in W.Va. Code §12-3-10c.

*124 - Auditor's Office –
Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,499,307
3	Current Expenses.	13000	1,578,622
4	Repairs and Alterations.	06400	5,500
5	Equipment.	07000	650,000
6	Other Assets.	69000	308,886
7	Statutory Revenue Distribution.	74100	<u>4,000,000</u>
8	Total.		\$ 9,042,315

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the amount necessary to
11 meet the transfer and revenue distribution requirements to the
12 Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy
13 Regional Recreation Authority, and the State Park Operating
14 Fund (fund 3265) per W.Va. Code §12-3-10d.

*125 - Auditor's Office –
Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,405,512
3	Current Expenses.	13000	765,915
4	Equipment.	07000	<u>50,000</u>
5	Total.		\$ 4,221,427

*126 - Auditor's Office –
Volunteer Fire Department Workers'
Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2017 Org 1200

1	Volunteer Fire Department		
2	Workers' Compensation		
3	Subsidy.	83200	\$ 2,500,000

*127 - Treasurer's Office –
College Prepaid Tuition and Savings Program
Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 774,769
3	Unclassified.	09900	14,000
4	Current Expenses.	13000	619,862
5	Total.		\$ 1,408,631

*128 - Treasurer's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1329 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 185,000
3	Unclassified.	09900	4,700
4	Current Expenses.	13000	236,949
5	Other Assets.	69000	50,000
6	Total.		\$ 476,649

*129 - Department of Agriculture –
Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,244,245
3	Unclassified.	09900	37,425
4	Current Expenses.	13000	1,356,184
5	Repairs and Alterations.	06400	58,500
6	Equipment.	07000	36,209
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 3,742,563

*130 - Department of Agriculture –
West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 73,807
3	Unclassified.	09900	10,476
4	Current Expenses.	13000	<u>963,404</u>
5	Total.		\$ 1,047,687

*131 - Department of Agriculture –
General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2017 Org 1400

1	Unclassified.	09900	\$ 2,100
2	Current Expenses.	13000	129,500
3	Repairs and Alterations.	06400	47,400
4	Equipment.	07000	<u>31,000</u>
5	Total.		\$ 210,000

6 The above appropriations shall be expended in accordance
 7 with Article 26, Chapter 19 of the Code.

*132 - Department of Agriculture –
 Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 309,248
3	Unclassified.	09900	15,173
4	Current Expenses.	13000	1,167,464
5	Repairs and Alterations.	06400	238,722
6	Equipment.	07000	249,393
7	Other Assets.	69000	<u>20,000</u>
8	Total.		\$ 2,000,000

*133 - Department of Agriculture –
 Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 958,864
3	Unclassified.	09900	45,807
4	Current Expenses.	13000	3,410,542
5	Repairs and Alterations.	06400	128,500
6	Equipment.	07000	10,000
7	Other Assets.	69000	<u>27,000</u>
8	Total.		\$ 4,580,713

*134 - Department of Agriculture –
 Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2017 Org 1400

1 Current Expenses..... 13000 \$ 100,000

*135 - Department of Agriculture –
West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2017 Org 1400

1 Current Expenses..... 13000 \$ 100

*136 - Department of Agriculture –
Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)

Fund 1483 FY 2017 Org 1400

1 Current Expenses..... 13000 \$ 7,500

*137 - Attorney General –
Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits..... 00100	\$	356,900
3	Current Expenses..... 13000		148,803
4	Repairs and Alterations..... 06400		1,000
5	Equipment..... 07000		<u>1,000</u>
6	Total.....	\$	507,703

*138 - Attorney General –
Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits.	00100	\$ 210,226
3	Current Expenses.	13000	54,615
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	<u>1,000</u>
6	Total.		\$ 266,841

*139 - Attorney General –
Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2017 Org 1500

1	Current Expenses.	13000	\$ 901,135
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*140 - Secretary of State –
Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 791,051
3	Unclassified.	09900	4,524
4	Current Expenses.	13000	<u>8,036</u>
5	Total.		\$ 803,611

*141 - Secretary of State –
General Administrative Fees Account*

(WV Code Chapters 3, 5 and 59)

Fund 1617 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits..... 00100	\$	2,769,898
3	Unclassified..... 09900		25,529
4	Current Expenses..... 13000		796,716
5	Technology Improvements. 59900		<u>750,000</u>
6	Total.....	\$	4,342,143

DEPARTMENT OF ADMINISTRATION

*142 - Department of Administration –
Office of the Secretary –
Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2017 Org 0201

1	Tobacco Settlement Securitization		
2	Trustee Pass Thru. 65000	\$	80,000,000

*143- Department of Administration –
Office of the Secretary –
Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2017 Org 0201

1	Current Expenses..... 13000	\$	37,656,000
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2 The above appropriation for Current Expenses (fund 2044,
3 appropriation 13000) shall be transferred to the Consolidated
4 Public Retirement Board – West Virginia Teachers’ Retirement
5 System Employers Accumulation Fund (fund 2601).

*144 - Division of Information
Services and Communications*

(WV Code Chapter 5A)

Fund 2220 FY 2017 Org 0210

1	Personal Services and Employee		
2	Benefits.	00100	\$ 23,378,322
3	Unclassified.	09900	382,354
4	Current Expenses.	13000	11,378,766
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	2,050,000
7	Other Assets.	69000	<u>1,045,000</u>
8	Total.		\$ 38,235,442

9 The total amount of these appropriations shall be paid from
10 a special revenue fund out of collections made by the division of
11 information services and communications as provided by law.

12 Each spending unit operating from the general revenue fund,
13 from special revenue funds or receiving reimbursement for
14 postage from the federal government shall be charged monthly
15 for all postage meter service and shall reimburse the revolving
16 fund monthly for all such amounts.

*145 - Division of Purchasing –
Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2017 Org 0213

1	Personal Services and Employee		
2	Benefits.	00100	\$ 655,208
3	Unclassified.	09900	2,382
4	Current Expenses.	13000	238,115
5	Repairs and Alterations.	06400	5,000

6	Equipment.	07000		2,500
7	Other Assets.	69000		2,500
8	BRIM Premium.	91300		810
9	Total.		\$	906,515

*146 - Division of Purchasing –
Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2017 Org 0213

1	Personal Services and Employee			
2	Benefits.	00100	\$	540,889
3	Unclassified.	09900		5,562
4	Current Expenses.	13000		393,066
5	Repairs and Alterations.	06400		500,500
6	Equipment.	07000		500
7	Other Assets.	69000		500,500
8	BRIM Premium.	91300		850
9	Total.		\$	1,941,867

*147 - Travel Management –
Fleet Management Office Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2017 Org 0215

1	Personal Services and Employee			
2	Benefits.	00100	\$	722,586
3	Unclassified.	09900		4,000
4	Current Expenses.	13000		8,130,614
5	Repairs and Alterations.	06400		12,000
6	Equipment.	07000		800,000
7	Other Assets.	69000		2,000
8	Total.		\$	9,671,200

*148 - Travel Management –
Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2017 Org 0215

1	Unclassified.	09900	\$	1,000
2	Current Expenses.	13000		149,700
3	Repairs and Alterations.	06400		400,237
4	Equipment.	07000		1,000
5	Buildings.	25800		100
6	Other Assets.	69000		100
7	Land.	73000		100
8	Total.		\$	552,237

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2017 Org 0222

1	Personal Services and Employee			
2	Benefits.	00100	\$	3,942,590
3	Unclassified.	09900		51,418
4	Current Expenses.	13000		1,062,813
5	Repairs and Alterations.	06400		5,000
6	Equipment.	07000		20,000
7	Other Assets.	69000		60,000
8	Total.		\$	5,141,821

9 The total amount of these appropriations shall be paid from
10 a special revenue fund out of fees collected by the division of
11 personnel.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2017 Org 0228

1	Personal Services and Employee		
2	Benefits.	00100	\$ 249,242
3	Unclassified.	09900	4,023
4	Current Expenses.	13000	297,528
5	Repairs and Alterations.	06400	600
6	Equipment.	07000	500
7	Other Assets.	69000	500
8	Total.		\$ 552,393

*151 - Office of Technology –
Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2017 Org 0231

1	Personal Services and Employee		
2	Benefits.	00100	\$ 399,911
3	Unclassified.	09900	6,949
4	Current Expenses.	13000	227,116
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	50,000
7	Other Assets.	69000	10,000
8	Total.		\$ 694,976

9 From the above fund, the provisions of W.Va. Code
10 §11B-2-18 shall not operate to permit expenditures in excess of
11 the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,464,328
3	Current Expenses.	13000	282,202
4	Repairs and Alterations.	06400	<u>53,000</u>
5	Total.		\$ 1,799,530

*153 - Division of Forestry –
Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 224,433
3	Current Expenses.	13000	87,036
4	Repairs and Alterations.	06400	<u>11,250</u>
5	Total.		\$ 322,719

*154 - Division of Forestry –
Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 859,626
3	Current Expenses.	13000	<u>435,339</u>
4	Total.		\$ 1,294,965

*155 - Geological and Economic Survey –
Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2017 Org 0306

1	Personal Services and Employee		
2	Benefits.	00100	\$ 37,966
3	Unclassified.	09900	2,182
4	Current Expenses.	13000	141,631
5	Repairs and Alterations.	06400	6,500
6	Equipment.	07000	20,000
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 218,279

9 The above appropriations shall be used in accordance with
 10 W.Va. Code §29-2-4.

*156 - West Virginia Development Office –
 Department of Commerce –
 Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,528,219
3	Unclassified.	09900	30,000
4	Current Expenses.	13000	<u>1,482,760</u>
5	Total.		\$ 3,040,979

*157 - Division of Labor –
 Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,519,374
3	Unclassified.	09900	21,589

(WV Code Chapter 21)

Fund 3192 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits..... 00100	\$	79,316
3	Unclassified..... 09900		1,281
4	Current Expenses..... 13000		44,520
5	Repairs and Alterations..... 06400		2,000
6	Buildings..... 25800		<u>1,000</u>
7	Total.....	\$	128,117

*161 - Division of Labor –
State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits..... 00100	\$	133,768
3	Unclassified..... 09900		1,847
4	Current Expenses..... 13000		43,700
5	Repairs and Alterations..... 06400		1,000
6	Buildings..... 25800		1,000
7	BRIM Premium..... 91300		<u>3,404</u>
8	Total.....	\$	184,719

*162 - Division of Labor –
Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2017 Org 0308

1	Current Expenses..... 13000	\$	48,000
2	Repairs and Alterations..... 06400		81,000

3	Equipment.	07000		<u>76,000</u>
4	Total.		\$	205,000

*163 - Division of Natural Resources –
License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2017 Org 0310

1	Wildlife Resources.	02300	\$	5,551,895
2	Administration.	15500		1,387,974
3	Capital Improvements and			
4	Land Purchase (R)	24800		1,387,973
5	Law Enforcement.	80600		<u>5,551,895</u>
6	Total.		\$	13,879,737

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of fees collected by the division of
9 natural resources.

10 Any unexpended balance remaining in the appropriation for
11 Capital Improvements and Land Purchase (fund 3200,
12 appropriation 24800) at the close of the fiscal year 2016 is
13 hereby reappropriated for expenditure during the fiscal year
14 2017.

*164 - Division of Natural Resources –
Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2017 Org 0310

1	Current Expenses.	13000	\$	125,000
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*165 - Division of Natural Resources –
Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 678,109
3	Current Expenses.	13000	201,930
4	Equipment.	07000	<u>106,615</u>
5	Total.		\$ 986,654

*166 - Division of Natural Resources –
Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 189,520
3	Current Expenses.	13000	157,864
4	Repairs and Alterations.	06400	15,016
5	Equipment.	07000	8,300
6	Buildings.	25800	8,300
7	Other Assets.	69000	1,000,000
8	Land.	73000	<u>31,700</u>
9	Total.		\$ 1,410,700

*167 - Division of Natural Resources –
Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 62,704
3	Current Expenses.	13000	64,778
4	Equipment.	07000	1,297

5	Buildings.	25800		<u>6,969</u>
6	Total.		\$	135,748

*168 - Division of Natural Resources –
Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2017 Org 0310

1	Unclassified.	09900	\$	200
2	Current Expenses.	13000		<u>19,800</u>
3	Total.		\$	20,000

*169 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2017 Org 0314

1	Personal Services and Employee			
2	Benefits.	00100	\$	471,606
3	WV Mining Extension Service. ...	02600		150,000
4	Unclassified.	09900		40,985
5	Current Expenses.	13000		1,954,557
6	Buildings.	25800		481,358
7	Land.	73000		<u>1,000,000</u>
8	Total.		\$	4,098,506

*170 - Department of Commerce –
Office of the Secretary –
Broadband Enhancement Fund*

Fund 3013 FY 2017 Org 0327

1	Current Expenses.	13000	\$	1,887,000
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*171 - Division of Energy –
Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2017 Org 0328

1	Energy Assistance – Total.....	64700	\$	62,000
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*172 - Division of Energy –
Office of Coal Field Community Development*

(WV Code Chapter 5B)

Fund 3011 FY 2017 Org 0328

1	Personal Services and Employee			
2	Benefits.....	00100	\$	430,724
3	Unclassified.....	09900		8,300
4	Current Expenses.....	13000		394,191
5	Repairs and Alterations.....	06400		1,000
6	Equipment.....	07000		4,000
7	Total.....		\$	838,215

DEPARTMENT OF EDUCATION

*173 - State Board of Education –
Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.....	00100	\$	134,000
3	Unclassified.....	09900		1,000
4	Current Expenses.....	13000		265,000
5	Total.....		\$	400,000

*174 - State Board of Education –
School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2017 Org 0402

1 SBA Construction Grants. 24000 \$ 27,217,000

175 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,087,932
3	Current Expenses.	13000	249,750
4	Repairs and Alterations.	06400	7,500
5	Equipment.	07000	<u>26,000</u>
6	Total.		\$ 1,371,182

7 The above appropriations are for the administrative expenses
8 of the school building authority and shall be paid from the
9 interest earnings on debt service reserve accounts maintained on
10 behalf of said authority.

*176 - State Board of Education –
State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 3960 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,169,194
3	Unclassified.	09900	17,000
4	Current Expenses.	13000	707,223
5	Repairs and Alterations.	06400	57,500
6	Equipment.	07000	1,000

7	Buildings.	25800		1,000
8	Other Assets.....	69000		10,000
9	Land	73000		<u>1,000</u>
10	Total.....		\$	1,963,917

DEPARTMENT OF EDUCATION AND THE ARTS

*177 - Office of the Secretary –
Lottery Education Fund Interest Earnings –
Control Account*

(WV Code Chapter 29)

Fund 3508 FY 2017 Org 0431

1 Any unexpended balance remaining in the appropriation for
2 Educational Enhancements (fund 3508, appropriation 69500) at
3 the close of the fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

*178 - Division of Culture and History –
Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2017 Org 0432

1	Personal Services and Employee			
2	Benefits.	00100	\$	211,418
3	Current Expenses.....	13000		862,241
4	Equipment.	07000		75,000
5	Buildings.	25800		1,000
6	Other Assets.....	69000		52,328
7	Land.	73000		<u>1,000</u>
8	Total.....		\$	1,202,987

*179 - State Board of Rehabilitation –
Division of Rehabilitation Services –
West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 119,738
3	Current Expenses.....	13000	2,180,122
4	Repairs and Alterations.....	06400	85,500
5	Equipment.....	07000	220,000
6	Buildings.....	25800	150,000
7	Other Assets.....	69000	<u>150,000</u>
8	Total.....		\$ 2,905,360

DEPARTMENT OF ENVIRONMENTAL PROTECTION

180 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2017 Org 0312

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 802,209
3	Current Expenses.....	13000	2,061,057
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	5,000
6	Other Assets.....	69000	<u>4,403</u>
7	Total.....		\$ 2,873,669

*181 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 692,784
3	Current Expenses.....	13000	195,569

4	Repairs and Alterations.	06400		500
5	Equipment.	07000		1,505
6	Unclassified.	09900		3,072
7	Other Assets.	69000		2,000
8	Total.		\$	895,430

*182 - Division of Environmental Protection –
Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	935,324
3	Current Expenses.	13000		1,238,610
4	Repairs and Alterations.	06400		13,000
5	Equipment.	07000		53,105
6	Unclassified.	09900		2,900
7	Other Assets.	69000		20,000
8	Total.		\$	2,262,939

*183 - Division of Environmental Protection –
Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,350,829
3	Current Expenses.	13000		16,402,506
4	Repairs and Alterations.	06400		79,950
5	Equipment.	07000		130,192
6	Other Assets.	69000		32,000
7	Total.		\$	17,995,477

*184 - Division of Environmental Protection –
Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	15,314
3	Current Expenses. 13000		356,094
4	Total.	\$	371,408

*185 - Division of Environmental Protection –
Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	3,264,961
3	Current Expenses. 13000		1,313,961
4	Repairs and Alterations. 06400		20,600
5	Equipment. 07000		8,000
6	Unclassified. 09900		44,700
7	Other Assets. 69000		15,000
8	Total.	\$	4,667,222

*186 - Division of Environmental Protection –
Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	4,635,449
3	Current Expenses. 13000		2,406,092
4	Repairs and Alterations. 06400		60,260

5	Equipment.	07000		85,134
6	Unclassified.	09900		920
7	Other Assets.	69000		<u>57,500</u>
8	Total.		\$	7,245,355

*187 - Division of Environmental Protection –
Underground Storage Tank
Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	466,543
3	Current Expenses.	13000		318,420
4	Repairs and Alterations.	06400		5,350
5	Equipment.	07000		3,610
6	Unclassified.	09900		7,520
7	Other Assets.	69000		<u>3,500</u>
8	Total.		\$	804,943

*188 - Division of Environmental Protection –
Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2017 Org 0313

1	Personal Services and			
2	Employee Benefits.	00100	\$	643,319
3	Current Expenses.	13000		422,386
4	Repairs and Alterations.	06400		7,014
5	Equipment.	07000		9,000
6	Unclassified.	09900		10,616
7	Other Assets.	69000		<u>11,700</u>
8	Total.		\$	1,104,035

*189 - Division of Environmental Protection –
Solid Waste Reclamation and
Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2017 Org 0313

1	Personal Services and		
2	Employee Benefits. 00100	\$	793,967
3	Current Expenses. 13000		3,605,237
4	Repairs and Alterations. 06400		25,000
5	Equipment. 07000		31,500
6	Unclassified. 09900		22,900
7	Other Assets. 69000		1,000
8	Total.	\$	4,479,604

*190 - Division of Environmental Protection –
Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2017 Org 0313

1	Personal Services and		
2	Employee Benefits. 00100	\$	3,041,424
3	Current Expenses. 13000		1,020,229
4	Repairs and Alterations. 06400		30,930
5	Equipment. 07000		23,356
6	Unclassified. 09900		37,145
7	Other Assets. 69000		25,554
8	Total.	\$	4,178,638

*191 - Division of Environmental Protection –
Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 5,667,421
3	Current Expenses.	13000	1,518,704
4	Repairs and Alterations.	06400	84,045
5	Equipment.	07000	115,356
6	Unclassified.	09900	5,580
7	Other Assets.	69000	<u>52,951</u>
8	Total.		\$ 7,444,057

*192 - Division of Environmental Protection –
Environmental Laboratory
Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 296,164
3	Current Expenses.	13000	216,288
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	6,500
6	Unclassified.	09900	400
7	Other Assets.	69000	<u>4,000</u>
8	Total.		\$ 524,352

*193 - Division of Environmental Protection –
Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2017 Org 0313

1	Current Expenses.	13000	\$ 10,298,205
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*194 - Division of Environmental Protection –
Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2017 Org 0313

1	Current Expenses.....	13000	\$	60,000
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*195 - Division of Environmental Protection –
Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.....	00100	\$	646,395
3	Current Expenses.....	13000		2,735,112
4	Repairs and Alterations.....	06400		800
5	Equipment.....	07000		500
6	Unclassified.....	09900		400
7	Other Assets.....	69000		2,500
8	Total.....		\$	3,385,707

*196 - Division of Environmental Protection –
Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,228,345
3	Current Expenses.....	13000		638,729
4	Repairs and Alterations.....	06400		30,112
5	Equipment.....	07000		23,725
6	Unclassified.....	09900		1,180
7	Other Assets.....	69000		15,500
8	Total.....		\$	1,937,591

*197 - Oil and Gas Conservation Commission –
Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2017 Org 0315

1	Personal Services and Employee		
2	Benefits.	00100	\$ 157,224
3	Current Expenses.	13000	161,225
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	9,481
6	Other Assets.	69000	<u>1,500</u>
7	Total.		\$ 330,430

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

*198 - Division of Health –
The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 876,771
3	Unclassified.	09900	15,500
4	Current Expenses.	13000	<u>1,257,788</u>
5	Total.		\$ 2,150,059

*199 - Division of Health –
Hospital Services Revenue Account
Special Fund*

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2017 Org 0506

1	Institutional Facilities Operations. . 33500	\$	56,708,911
2	Medical Services Trust Fund –		
3	Transfer. 51200		<u>27,800,000</u>
4	Total.	\$	84,508,911

5 The total amount of these appropriations shall be paid from
6 the hospital services revenue account special fund created by
7 W.Va. Code §16-1-13, and shall be used for operating expenses
8 and for improvements in connection with existing facilities.

9 Additional funds have been appropriated in fund 0525, fiscal
10 year 2017, organization 0506, for the operation of the
11 institutional facilities. The secretary of the department of health
12 and human resources is authorized to utilize up to ten percent of
13 the funds from the appropriation for Institutional Facilities
14 Operations to facilitate cost effective and cost saving services at
15 the community level.

16 Necessary funds from the above appropriation may be used
17 for medical facilities operations, either in connection with this
18 fund or in connection with the appropriation designated
19 Institutional Facilities Operations in the consolidated medical
20 service fund (fund 0525, organization 0506).

21 From the above appropriation to Institutional Facilities
22 Operations, together with available funds from the consolidated
23 medical services fund (fund 0525, appropriation 33500) on July
24 1, 2016, the sum of \$160,000 shall be transferred to the
25 Department of Agriculture – Land Division – Farm Operating
26 Fund (1412) as advance payment for the purchase of food
27 products; actual payments for such purchases shall not be
28 required until such credits have been completely expended.

*200 - Division of Health –
Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 912,657
3	Unclassified.	09900	18,114
4	Current Expenses.	13000	<u>880,716</u>
5	Total.		\$ 1,811,487

*201 - Division of Health –
The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 605,950
3	Unclassified.	09900	7,113
4	Current Expenses.	13000	<u>98,247</u>
5	Total.		\$ 711,310

*202 - Division of Health –
Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2017 Org 0506

1	Current Expenses.	13000	\$ 13,800
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*203 - Division of Health –
Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 19,100

7	Equipment.	07000	50,000
8	Buildings.	25800	25,000
9	Other Assets.....	69000	<u>100,000</u>
10	Total.....		\$ 6,738,766

11 The above appropriation is to be expended in accordance
 12 with and pursuant to the provisions of W.Va. Code §16-29B and
 13 from the special revolving fund designated health care cost
 14 review fund.

15 The Health Care Authority is authorized to transfer up to
 16 \$1,500,000 from fund 5375 to the West Virginia Health
 17 Information Network Account (fund 5380) as authorized per
 18 W.Va. Code §16-29G-4.

*207 - West Virginia Health Care Authority –
 West Virginia Health Information Network Account*

(WV Code Chapter 16)

Fund 5380 FY 2017 Org 0507

1	Personal Services and Employee		
2	Benefits.	00100	\$ 729,000
3	Unclassified.	09900	20,000
4	Current Expenses.....	13000	1,251,000
5	Technology Infrastructure		
6	Network.....	35100	<u>3,500,000</u>
7	Total.....		\$ 5,500,000

*208 - Division of Human Services –
 Health Care Provider Tax –
 Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2017 Org 0511

1	Medical Services.	18900	\$ 198,381,008
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2	Medical Services Administrative		
3	Costs.	78900	<u>418,992</u>
4	Total..		\$ 198,800,000

5 The above appropriation for Medical Services
6 Administrative Costs (fund 5090, appropriation 78900) shall be
7 transferred to a special revenue account in the treasury for use by
8 the Department of Health and Human Resources for
9 administrative purposes. The remainder of all moneys deposited
10 in the fund shall be transferred to the West Virginia medical
11 services fund (fund 5084).

*209 - Division of Human Services –
Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 24,809,509
3	Unclassified (R)..	09900	380,000
4	Current Expenses (R)..	13000	<u>12,810,491</u>
5	Total..		\$ 38,000,000

6 Any unexpended balances remaining in the appropriations
7 for Unclassified (fund 5094, appropriation 09900) and Current
8 Expenses (fund 5094, appropriation 13000) at the close of the
9 fiscal year 2016 are hereby reappropriated for expenditure
10 during the fiscal year 2017.

*210 - Division of Human Services –
Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2017 Org 0511

1	Medical Services.	18900	\$ 55,858,205
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2	Medical Services Administrative		
3	Costs.	78900	<u>548,723</u>
4	Total.....		\$ 56,406,928

5 The above appropriation to Medical Services shall be used
6 to provide state match of Medicaid expenditures as defined and
7 authorized in subsection (c) of W.Va. Code §9-4A-2a.
8 Expenditures from the fund are limited to the following:
9 payment of backlogged billings, funding for services to future
10 federally mandated population groups and payment of the
11 required state match for medicaid disproportionate share
12 payments. The remainder of all moneys deposited in the fund
13 shall be transferred to the division of human services accounts.

*211 - Division of Human Services –
James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 89,392
3	Unclassified.	09900	16,031
4	Current Expenses.....	13000	<u>1,497,688</u>
5	Total.....		\$ 1,603,111

*212 - Division of Human Services –
Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2017 Org 0511

1	Current Expenses.....	13000	\$ 1,077,982
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*213 - Division of Human Services –
West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2017 Org 0511

1 Current Expenses..... 13000 \$ 1,065,000

*214 - Division of Human Services –
West Virginia Works Separate State
Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2017 Org 0511

1 Current Expenses..... 13000 \$ 3,250,000

*215 - Division of Human Services –
Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits..... 00100	\$	10,000
3	Current Expenses..... 13000		<u>25,000</u>
4	Total.....	\$	35,000

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*216 - Department of Military Affairs and Public Safety –
Office of the Secretary –
Law-Enforcement, Safety and Emergency Worker
Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2017 Org 0601

1 Current Expenses..... 13000 \$ 32,000

*217 - State Armory Board –
General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2017 Org 0603

1	Personal Services and Employee		
2	Benefits..... 00100	\$	1,643,528
3	Current Expenses..... 13000		750,000
4	Repairs and Alterations..... 06400		485,652
5	Equipment..... 07000		300,000
6	Buildings..... 25800		770,820
7	Land..... 73000		<u>50,000</u>
8	Total.....	\$	4,000,000

9 From the above appropriations, the Adjutant General may
10 receive and expend funds to conduct operations and activities to
11 include functions of the Military Authority. The Adjutant
12 General may transfer funds between appropriations, except no
13 funds may be transferred to Personal Services and Employee
14 Benefits (fund 6057, appropriation 00100).

*218 - Division of Homeland Security and
Emergency Management –
West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2017 Org 0606

1 Current Expenses..... 13000 \$ 2,000,000

2 Any unexpended balance remaining in the appropriation for
3 Unclassified – Total (fund 6295, appropriation 09600) at the

4 close of fiscal year 2016 is hereby reappropriated for expenditure
5 during the fiscal year 2017.

*219 - West Virginia Division of Corrections –
Parolee Supervision Fees*

(WV Code Chapter 62)

Fund 6362 FY 2017 Org 0608

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,013,793
3	Unclassified.	09900	9,804
4	Current Expenses.	13000	758,480
5	Equipment.	07000	30,000
6	Other Assets.	69000	<u>40,129</u>
7	Total.		\$ 1,852,206

*220 - West Virginia State Police –
Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,786,923
3	Current Expenses.	13000	288,211
4	Repairs and Alterations.	06400	4,500
5	Equipment.	07000	350,000
6	Buildings.	25800	534,000
7	Other Assets.	69000	5,000
8	BRIM Premium.	91300	<u>302,432</u>
9	Total.		\$ 3,271,066

10 The total amount of these appropriations shall be paid from
11 the special revenue fund out of fees collected for inspection
12 stickers as provided by law. Per W.Va. §17C-16-5(a) any

13 balance remaining in the fund on the last day of June of each
 14 fiscal year, not required for the administration and enforcement
 15 of the provisions of this article, shall be transferred to the state
 16 road fund.

*221 - West Virginia State Police –
 Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2017 Org 0612

1	Current Expenses.	13000	\$	1,327,000
2	Equipment.	07000		3,491,895
3	BRIM Premium.	91300		<u>154,452</u>
4	Total.		\$	4,973,347

5 The total amount of these appropriations shall be paid from
 6 the special revenue fund out of receipts collected pursuant to
 7 W.Va. Code §11-15-9a and 16 and paid into a revolving fund
 8 account in the state treasury.

*222 - West Virginia State Police –
 Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2017 Org 0612

1	Buildings.	25800	\$	443,980
2	Land.	73000		1,000
3	BRIM Premium.	91300		<u>77,222</u>
4	Total.		\$	522,202

*223 - West Virginia State Police –
 Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2017 Org 0612

1	Current Expenses.	13000	\$	114,063
2	Repairs and Alterations.	06400		10,000
3	Equipment.	07000		157,002
4	Buildings.	25800		40,000
5	Other Assets.	69000		45,000
6	Total.		\$	366,065

*224 - West Virginia State Police –
Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2017 Org 0612

1	Personal Services and Employee			
2	Benefits.	00100	\$	236,881
3	Current Expenses.	13000		51,443
4	Repairs and Alterations.	06400		500
5	Equipment.	07000		200,500
6	Other Assets.	69000		500
7	BRIM Premium.	91300		18,524
8	Total.		\$	508,348

*225 - West Virginia State Police –
Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2017 Org 0612

1	Current Expenses.	13000	\$	8,300
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*226 - West Virginia State Police –
State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2017 Org 0612

1	Current Expenses.....	13000	\$	160,000
2	Repairs and Alterations.....	06400		<u>40,000</u>
3	Total.....		\$	200,000

227 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2017 Org 0615

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,971,039
3	Debt Service.....	04000		9,000,000
4	Current Expenses.....	13000		495,852
5	Repairs and Alterations.....	06400		4,000
6	Equipment.....	07000		<u>1,743</u>
7	Total.....		\$	11,472,634

*228 - Fire Commission –
Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2017 Org 0619

1	Personal Services and Employee			
2	Benefits.....	00100	\$	2,848,036
3	Unclassified.....	09900		3,800
4	Current Expenses.....	13000		1,249,550
5	Repairs and Alterations.....	06400		58,500
6	Equipment.....	07000		35,800
7	Other Assets.....	69000		12,000
8	BRIM Premium.....	91300		<u>50,000</u>
9	Total.....		\$	4,257,686

*229 - Division of Justice and Community Services –
WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits. 00100	\$	152,000
3	Unclassified. 09900		750
4	Current Expenses. 13000		1,846,250
5	Repairs and Alterations. 06400		<u>1,000</u>
6	Total.	\$	2,000,000

*230 - Division of Justice and Community Services –
Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits. 00100	\$	21,865
3	Current Expenses. 13000		<u>1,478,135</u>
4	Total.	\$	1,500,000

DEPARTMENT OF REVENUE

231 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2017 Org 0303

1	Personal Services and Employee		
2	Benefits. 00100	\$	2,421,059
3	Unclassified. 09900		32,290
4	Current Expenses. 13000		729,227
5	Repairs and Alterations. 06400		500
6	Equipment. 07000		16,000
7	Other Assets. 69000		<u>30,000</u>
8	Total.	\$	3,229,076

*232 - Office of the Secretary –
State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2017 Org 0701

1	Directed Transfer.....	70000		20,000,000
2	The above appropriation for Directed Transfer shall be			
3	transferred to the Consolidated Public Retirement Board – West			
4	Virginia Public Employees Retirement System Employers			
5	Accumulation Fund (fund 2510).			

*233 - Tax Division –
Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2017 Org 0702

1	Personal Services and Employee			
2	Benefits.....	00100	\$	23,459
3	Current Expenses.....	13000		7,717
4	Total.....		\$	31,176

*234 - Tax Division –
Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2017 Org 0702

1	Personal Services and Employee			
2	Benefits.....	00100	\$	655,203
3	Unclassified.....	09900		9,500
4	Current Expenses.....	13000		273,297
5	Repairs and Alterations.....	06400		7,000

4	Current Expenses.....	13000		784,563
5	Repairs and Alterations.....	06400		1,000
6	Equipment.....	07000		5,000
7	Total.....		\$	2,309,531

*238 - State Budget Office –
Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2017 Org 0703

1	Public Employees Insurance Reserve			
2	Fund – Transfer.....	90300	\$	6,800,000

3 The above appropriation for Public Employees Insurance
4 Reserve Fund – Transfer shall be transferred to the Medical
5 Services Trust Fund (fund 5185, org 0511) for expenditure.

*239 - Insurance Commissioner –
Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2017 Org 0704

1	Personal Services and Employee			
2	Benefits.....	00100	\$	721,117
3	Current Expenses.....	13000		1,357,201
4	Repairs and Alterations.....	06400		3,000
5	Equipment.....	07000		81,374
6	Buildings.....	25800		8,289
7	Other Assets.....	69000		11,426
8	Total.....		\$	2,182,407

*240 - Insurance Commissioner –
Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2017 Org 0704

1	Personal Services and Employee		
2	Benefits.	00100	\$ 552,228
3	Current Expenses.	13000	202,152
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	34,225
6	Buildings.	25800	4,865
7	Other Assets.	69000	<u>19,460</u>
8	Total.		\$ 817,930

*241 - Insurance Commissioner –
Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2017 Org 0704

1	Personal Services and Employee		
2	Benefits.	00100	\$ 25,039,727
3	Current Expenses.	13000	8,797,758
4	Repairs and Alterations.	06400	68,614
5	Equipment.	07000	1,728,240
6	Buildings.	25800	25,000
7	Other Assets.	69000	<u>340,661</u>
8	Total.		\$ 36,000,000

*242 - Insurance Commissioner –
Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2017 Org 0704

1	Employee Benefits.	01000	\$ 125,000
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2	Current Expenses.....	13000	<u>549,875,000</u>
3	Total.....		\$ 550,000,000

*243- Insurance Commissioner –
Workers’ Compensation Uninsured Employers’ Fund*

(WV Code Chapter 23)

Fund 7163 FY 2017 Org 0704

1	Current Expenses.....	13000	\$ 27,000,000
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*244 - Insurance Commissioner –
Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2017 Org 0704

1	Current Expenses.....	13000	\$ 5,000,000
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*245 - Insurance Commissioner –
Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2017 Org 0704

1	Current Expenses.....	13000	\$ 10,000,000
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*246 - Lottery Commission –
Revenue Center Construction Fund*

(WV Code Chapter 29)

Fund 7209 FY 2017 Org 0705

1	Buildings.....	25800	\$ 500,000
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247 - *Municipal Bond Commission*

(WV Code Chapter 13)

Fund 7253 FY 2017 Org 0706

1	Personal Services and Employee		
2	Benefits.	00100	\$ 247,523
3	Current Expenses.	13000	144,844
4	Equipment.	07000	<u>100</u>
5	Total.		\$ 392,467

248 - *Racing Commission – Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2017 Org 0707

1	Medical Expenses – Total.	24500	\$ 57,000
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2 The total amount of this appropriation shall be paid from the
3 special revenue fund out of collections of license fees and fines
4 as provided by law.

5 No expenditures shall be made from this fund except for
6 hospitalization, medical care and/or funeral expenses for persons
7 contributing to this fund.

249 - *Racing Commission – Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2017 Org 0707

1	Personal Services and Employee		
2	Benefits.	00100	\$ 256,665

3	Current Expenses.....	13000		93,335
4	Other Assets.....	69000		<u>5,000</u>
5	Total.....		\$	355,000

*250 - Racing Commission –
General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2017 Org 0707

1	Personal Services and Employee			
2	Benefits.....	00100	\$	2,271,339
3	Current Expenses.....	13000		566,248
4	Repairs and Alterations.....	06400		7,000
5	Other Assets.....	69000		<u>50,000</u>
6	Total.....		\$	2,894,587

*251 - Racing Commission –
Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs
to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2017 Org 0707

1	Personal Services and Employee			
2	Benefits.....	00100	\$	864,474
3	Current Expenses.....	13000		214,406
4	Other Assets.....	69000		<u>200,000</u>
5	Total.....		\$	1,278,880

*252 - Alcohol Beverage Control Administration –
Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2017 Org 0708

1	Personal Services and Employee		
2	Benefits.	00100	\$ 122,339
3	Current Expenses.	13000	69,186
4	Repairs and Alterations.	06400	7,263
5	Equipment.	07000	10,000
6	Buildings.	25800	100,000
7	Other Assets.	69000	100
8	Total.		\$ 308,888

9 To the extent permitted by law, four classified exempt
 10 positions shall be provided from Personal Services and
 11 Employee Benefits appropriation for field auditors.

253 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2017 Org 0708

1	Personal Services and Employee		
2	Benefits.	00100	\$ 5,413,237
3	Current Expenses.	13000	2,897,577
4	Repairs and Alterations.	06400	84,000
5	Equipment.	07000	108,000
6	Buildings.	25800	100
7	Purchase of Supplies for Resale. . .	41900	72,500,000
8	Transfer Liquor Profits and Taxes..	42500	16,000,000
9	Other Assets.	69000	100
10	Land.	73000	100
11	Total.		\$ 97,003,114

12 The total amount of these appropriations shall be paid from
 13 a special revenue fund out of liquor revenues and any other
 14 revenues available.

15 The above appropriations include the salary of the
16 commissioner and the salaries, expenses and equipment of
17 administrative offices, warehouses and inspectors.

18 The above appropriations include funding for the
19 Tobacco/Alcohol Education Program.

20 There is hereby appropriated from liquor revenues, in
21 addition to the above appropriations as needed, the necessary
22 amount for the purchase of liquor as provided by law and the
23 remittance of profits and taxes to the General Revenue Fund.

254 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2017 Org 0933

1 Current Expenses..... 13000 \$ 20,000

DEPARTMENT OF TRANSPORTATION

*255 - Division of Motor Vehicles –
Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2017 Org 0802

1 Current Expenses..... 13000 \$ 189,000

*256 - Division of Motor Vehicles –
Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2017 Org 0802

1 Personal Services and Employee
2 Benefits..... 00100 \$ 2,852,799

4	Repairs and Alterations.	06400		10,000
5	Equipment.	07000		10,000
6	Other Assets.	69000		<u>10,000</u>
7	Total.		\$	2,380,207

*260 - Department of Veterans' Assistance –
WV Veterans' Home –
Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2017 Org 0618

1	Current Expenses.	13000	\$	700,000
2	Repairs and Alterations.	06400		<u>50,000</u>
3	Total.		\$	750,000

BUREAU OF SENIOR SERVICES

*261 - Bureau of Senior Services –
Community Based Service Fund*

(WV Code Chapter 22)

Fund 5409 FY 2017 Org 0508

1	Personal Services and Employee			
2	Benefits.	00100	\$	151,290
3	Current Expenses.	13000		<u>10,348,710</u>
4	Total.		\$	10,500,000

5 The total amount of these appropriations are funded from
6 annual table game license fees to enable the aged and disabled
7 citizens of West Virginia to stay in their homes through the
8 provision of home and community-based services.

**WEST VIRGINIA COUNCIL FOR COMMUNITY AND
TECHNICAL COLLEGE EDUCATION**

*262 - West Virginia University at Parkersburg –
Land Sale Account*

(WV Code Chapter 18B)

Fund 4322 FY 2017 Org 0464

- 1 Capital Outlay, Repairs and
- 2 Equipment. 58900 \$ 532,000
- 3 The total amount of this appropriation shall be used for the
- 4 purchase of additional real property or technology, or for capital
- 5 improvements at the institution.

HIGHER EDUCATION POLICY COMMISSION

*263 - Higher Education Policy Commission –
System –
Tuition Fee Capital Improvement Fund
(Capital Improvement and Bond Retirement Fund)
Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2017 Org 0442

- 1 Debt Service. 04000 \$ 27,720,321
- 2 General Capital Expenditures. . . . 30600 5,000,000
- 3 Facilities Planning and
- 4 Administration. 38600 421,082
- 5 Total. \$ 33,141,403

- 6 The total amount of these appropriations shall be paid from
- 7 the special capital improvement fund created in W.Va. Code
- 8 §18B-10-8. Projects are to be paid on a cash basis and made
- 9 available on July 1.

10 The above appropriations, except for debt service, may be
11 transferred to special revenue funds for capital improvement
12 projects at the institutions.

264 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2017 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay (fund 4906, appropriation 51100) at the close of
3 the fiscal year 2016 is hereby reappropriated for expenditure
4 during the fiscal year 2017.

5 The appropriation shall be paid from available unexpended
6 cash balances and interest earnings accruing to the fund. The
7 appropriation shall be expended at the discretion of the Higher
8 Education Policy Commission and the funds may be allocated to
9 any institution within the system.

10 The total amount of this appropriation shall be paid from the
11 unexpended proceeds of revenue bonds previously issued
12 pursuant to W.Va. Code §18-12B-8, which have since been
13 refunded.

*265 - Community and Technical College –
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2017 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Improvements – Total (fund 4908, appropriation 95800)
3 at the close of fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

5 The total amount of this appropriation shall be paid from the
 6 sale of the 2009 Series A Community and Technical College
 7 Capital Improvement Revenue Bonds and anticipated interest
 8 earnings.

*266 - West Virginia University –
 West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2017 Org 0463

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,274,340
3	Current Expenses.	13000	4,524,300
4	Repairs and Alterations.	06400	425,000
5	Equipment.	07000	512,000
6	Buildings.	25800	150,000
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 15,935,640

MISCELLANEOUS BOARDS AND COMMISSIONS

*267- Board of Barbers and Cosmetologists –
 Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2017 Org 0505

1	Personal Services and Employee		
2	Benefits.	00100	\$ 504,497
3	Current Expenses.	13000	<u>239,969</u>
4	Total.		\$ 744,466

5 The total amount of these appropriations shall be paid from
 6 a special revenue fund out of collections made by the board of
 7 barbers and cosmetologists as provided by law.

268- Hospital Finance Authority –
Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2017 Org 0509

1	Personal Services and Employee		
2	Benefits.	00100	\$ 85,981
3	Unclassified..	09900	1,450
4	Current Expenses.....	13000	<u>57,740</u>
5	Total.....		\$ 145,171

6 The total amount of these appropriations shall be paid from
7 the special revenue fund out of fees and collections as provided
8 by Article 29A, Chapter 16 of the Code.

269 - WV State Board of Examiners for Licensed Practical
Nurses –
Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2017 Org 0906

1	Personal Services and Employee		
2	Benefits.	00100	\$ 430,324
3	Current Expenses.....	13000	<u>53,133</u>
4	Total.....		\$ 483,457

270 - WV Board of Examiners for Registered Professional
Nurses –
Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2017 Org 0907

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,081,694

(WV Code Chapter 24B)

Fund 8624 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 284,198
3	Unclassified.	09900	3,851
4	Current Expenses.	13000	93,115
5	Repairs and Alterations.	06400	<u>4,000</u>
6	Total.		\$ 385,164

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of receipts collected for or by the
9 public service commission pursuant to and in the exercise of
10 regulatory authority over pipeline companies as provided by law.

*273 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,243,526
3	Unclassified.	09900	29,233
4	Current Expenses.	13000	577,557
5	Repairs and Alterations.	06400	23,000
6	Equipment.	07000	<u>50,000</u>
7	Total.		\$ 2,923,316

8 The total amount of these appropriations shall be paid from
9 a special revenue fund out of receipts collected for or by the
10 public service commission pursuant to and in the exercise of
11 regulatory authority over motor carriers as provided by law.

*274 - Public Service Commission –
Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 743,372
3	Current Expenses.	13000	276,472
4	Equipment.	07000	10,000
5	BRIM Premium.	91300	<u>4,532</u>
6	Total.		\$ 1,034,376

7 The total amount of these appropriations shall be supported
 8 by cash from a special revenue fund out of collections made by
 9 the public service commission.

*275 - Real Estate Commission –
 Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2017 Org 0927

1	Personal Services and Employee		
2	Benefits.	00100	\$ 582,413
3	Current Expenses.	13000	285,622
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	<u>10,000</u>
6	Total.		\$ 883,035

7 The total amount of these appropriations shall be paid out of
 8 collections of license fees as provided by law.

*276 - WV Board of Examiners for Speech-Language
 Pathology and Audiology –
 Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2017 Org 0930

1	Personal Services and Employee		
2	Benefits.	00100	\$ 73,190
3	Current Expenses.	13000	<u>65,623</u>
4	Total.		\$ 138,813

*277 - WV Board of Respiratory Care –
Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2017 Org 0935

1	Personal Services and Employee		
2	Benefits.	00100	\$ 79,583
3	Current Expenses.	13000	51,047
4	Repairs and Alterations.	06400	<u>400</u>
5	Total.		\$ 131,030

*278 - WV Board of Licensed Dietitians –
Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2017 Org 0936

1	Personal Services and Employee		
2	Benefits.	00100	\$ 8,648
3	Current Expenses.	13000	<u>14,352</u>
4	Total.		\$ 23,000

*279 - Massage Therapy Licensure Board –
Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2017 Org 0938

1	Personal Services and Employee		
2	Benefits.	00100	\$ 104,358

3	Current Expenses.....	13000		<u>22,708</u>
4	Total.....		\$	127,066

*280 - Board of Medicine –
Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2017 Org 0945

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,047,752
3	Current Expenses.....	13000		988,789
4	Repairs and Alterations.....	06400		<u>20,000</u>
5	Total.....		\$	2,056,541

*281 - West Virginia Enterprise Resource Planning Board –
Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2017 Org 0947

1	Personal Services and Employee			
2	Benefits.....	00100	\$	6,713,066
3	Unclassified.....	09900		430,000
4	Current Expenses.....	13000		42,306,934
5	Repairs and Alterations.....	06400		100,000
6	Equipment.....	07000		250,000
7	Buildings.....	25800		100,000
8	Other Assets.....	69000		<u>100,000</u>
9	Total.....		\$	50,000,000

*282 - Board of Treasury Investments –
Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2017 Org 0950

1	Personal Services and Employee		
2	Benefits.	00100	\$ 715,279
3	Unclassified.	09900	12,667
4	Current Expenses.	13000	488,074
5	BRIM Premium.	91300	50,687
6	Fees of Custodians, Fund Advisors and		
7	Fund Managers.	93800	<u>3,500,000</u>
8	Total.		\$ 4,766,707

9 There is hereby appropriated from this fund, in addition to
10 the above appropriation if needed, an amount of funds necessary
11 for the Board of Treasury Investments to pay the fees and
12 expenses of custodians, fund advisors and fund managers for the
13 Consolidated fund of the State as provided in Article 6C,
14 Chapter 12 of the Code.

15 The total amount of these appropriations shall be paid from
16 the special revenue fund out of fees and collections as provided
17 by law.

18 Total TITLE II, Section 3 — Other Funds
19 (Including claims against the state).. . \$ 1,759,679,222

1 **Sec. 4. Appropriations from lottery net profits.** — Net
2 profits of the lottery are to be deposited by the director of the
3 lottery to the following accounts in the amounts indicated. The
4 director of the lottery shall prorate each deposit of net profits in
5 the proportion the appropriation for each account bears to the
6 total of the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund
8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the
9 director of the lottery shall make available from the remaining
10 net profits of the lottery any amounts needed to pay debt service
11 for which an appropriation is made for Fund 9065, Fund 4297,

12 Fund 3390, and Fund 3514 and is authorized to transfer any such
 13 amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514
 14 for that purpose. Upon receipt of reimbursement of amounts so
 15 transferred, the director of the lottery shall deposit the
 16 reimbursement amounts to the following accounts as required by
 17 this section.

*283 - Education, Arts, Sciences and Tourism –
 Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2017 Org 0211

		Appro- p-riation		Lottery Funds
1	Debt Service – Total.	31000	\$	10,000,000

*284 - West Virginia Development Office –
 Division of Tourism*

(WV Code Chapter 5B)

Fund 3067 FY 2017 Org 0304

1	Tourism – Telemarketing Center.	46300	\$	82,080
2	WV Film Office.	49800		341,153
3	Tourism – Advertising (R).	61800		3,380,407
4	Tourism – Operations (R).	66200		3,970,510
5	Total.		\$	7,774,150

6 Any unexpended balances remaining in the appropriations
 7 for Tourism – Advertising (fund 3067, appropriation 61800), and
 8 Tourism – Operations (fund 3067, appropriation 66200) at the
 9 close of the fiscal year 2016 are hereby reappropriated for
 10 expenditure during the fiscal year 2017.

285 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,104,327
3	Current Expenses.	13000	23,000
4	Pricketts Fort State Park.	32400	106,560
5	Non-Game Wildlife (R).	52700	367,248
6	State Parks and Recreation		
7	Advertising (R).	61900	<u>494,578</u>
8	Total.		\$ 3,095,713

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 3267, appropriation 09900), Capital
11 Outlay – Parks (fund 3267, appropriation 28800), Non-Game
12 Wildlife (fund 3267, appropriation 52700), and State Parks and
13 Recreation Advertising (fund 3267, appropriation 61900) at the
14 close of the fiscal year 2016 are hereby reappropriated for
15 expenditure during the fiscal year 2017.

286 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2017 Org 0402

1	FBI Checks.	37200	\$ 108,860
2	Vocational Education Equipment		
3	Replacement.	39300	800,000
4	Assessment Program (R).	39600	2,946,059
5	21st Century Technology Infrastructure		
6	Network Tools and		
7	Support (R).	93300	<u>14,151,287</u>
8	Total.		\$ 18,006,206

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 3951, appropriation 09900), Current
11 Expenses (fund 3951, appropriation 13000), Assessment

12 Program (fund 3951, appropriation 39600), and 21st Century
 13 Technology Infrastructure Network Tools and Support (fund
 14 3951, appropriation 93300) at the close of the fiscal year 2016
 15 are hereby reappropriated for expenditure during the fiscal year
 16 2017.

*287 - State Department of Education –
 School Building Authority –
 Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2017 Org 0402

1	Debt Service – Total.	31000	\$	7,507,700
2	Directed Transfer.	70000		<u>10,492,300</u>
3	Total.		\$	18,000,000

4 The School Building Authority shall have the authority to
 5 transfer between the above appropriations in accordance with
 6 W.Va. Code §29-22-18.

*288 - Department of Education and the Arts –
 Office of the Secretary –
 Control Account –
 Lottery Education Fund*

(WV Code Chapter 5F)

Fund 3508 FY 2017 Org 0431

1	Unclassified (R).	09900	\$	11,864
2	Current Expenses.	13000		108,136
3	Commission for National and			
4	Community Service.	19300		350,228
5	Arts Programs (R).	50000		81,510
6	College Readiness.	57900		154,906
7	Statewide STEM 21st Century			

8	Academy.	89700	130,000
9	Literacy Project (R).	89900	<u>350,000</u>
10	Total.		\$ 1,186,644

11 Any unexpended balances remaining in the appropriations
 12 for Unclassified (fund 3508, appropriation 09900), Governor's
 13 Honors Academy (fund 3508, appropriation 47800), Arts
 14 Programs (fund 3508, appropriation 50000), and Literacy Project
 15 (fund 3508, appropriation 89900) at the close of fiscal year 2016
 16 are hereby reappropriated for expenditure during the fiscal year
 17 2017.

*289 - Division of Culture and History –
 Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2017 Org 0432

1	Huntington Symphony.	02700	\$ 82,025
2	Preservation West Virginia (R).	09200	652,799
3	Fairs and Festivals (R).	12200	1,853,663
4	Archeological Curation/Capital		
5	Improvements (R).	24600	41,770
6	Historic Preservation Grants (R).	31100	368,428
7	West Virginia Public Theater.	31200	166,693
8	George Tyler Moore Center for the		
9	Study of the Civil War.	39700	51,932
10	Greenbrier Valley Theater.	42300	138,254
11	Theater Arts of West Virginia.	46400	125,000
12	Marshall Artists Series.	51800	50,008
13	Grants for Competitive Arts		
14	Program (R).	62400	726,000
15	West Virginia State Fair.	65700	43,391
16	Save the Music.	68000	35,000
17	Contemporary American Theater		
18	Festival.	81100	79,558

19	Independence Hall.	81200	37,885
20	Mountain State Forest Festival. . .	86400	53,038
21	WV Symphony..	90700	82,025
22	Wheeling Symphony.	90800	82,025
23	Appalachian Children's Chorus. . .	91600	<u>75,770</u>
24	Total.		\$ 4,745,264

25 Any unexpended balances remaining in the appropriations
 26 for Preservation West Virginia (fund 3534, appropriation
 27 09200), Fairs and Festivals (fund 3534, appropriation 12200),
 28 Archeological Curation/Capital Improvements (fund 3534,
 29 appropriation 24600), Historic Preservation Grants (fund 3534,
 30 appropriation 31100), Grants for Competitive Arts Program
 31 (fund 3534, appropriation 62400), and Project ACCESS (fund
 32 3534, appropriation 86500) at the close of the fiscal year 2016
 33 are hereby reappropriated for expenditure during the fiscal year
 34 2017.

35 From the above appropriation for Preservation West Virginia
 36 (fund 3534, appropriation 09200) funding shall be provided to
 37 the African-American Heritage Family Tree Museum (Fayette)
 38 \$3,713, Aracoma Story (Logan) \$41,254, Arts Monongahela
 39 (Monongalia) \$16,502, Barbour County Arts and Humanities
 40 Council \$1,238, Beckley Main Street (Raleigh) \$4,125, Buffalo
 41 Creek Memorial (Logan) \$4,125, Carnegie Hall (Greenbrier)
 42 \$65,138, Ceredo Historical Society (Wayne) \$1,650, Ceredo
 43 Kenova Railroad Museum (Wayne) \$1,650, Ceredo Museum
 44 (Wayne) \$1,000, Children's Theatre of Charleston (Kanawha)
 45 \$4,343, Chuck Mathena Center (Mercer) \$86,850, Collis P.
 46 Huntington Railroad Historical Society (Cabell) \$8,251, Country
 47 Music Hall of Fame and Museum (Marion) \$5,776, First Stage
 48 Children's Theater Company \$1,650, Flannigan Murrell House
 49 (Summers) \$5,251, Fort Ashby Fort (Mineral) \$1,238, Fort New
 50 Salem (Harrison) \$3,053, Fort Randolph (Mason) \$4,125,
 51 General Adam Stephen Memorial Foundation (Berkeley)
 52 \$15,286, Grafton Mother's Day Shrine Committee (Taylor)

53 \$7,013, Hardy County Tour and Crafts Association \$16,502,
54 Heartwood in the Hills (Calhoun) \$7,000, Heritage Farm
55 Museum & Village (Cabell) \$41,254, Historic Fayette Theater
56 (Fayette) \$4,538, Historic Middleway Conservancy (Jefferson)
57 \$825, Jefferson County Black History Preservation Society
58 \$4,125, Jefferson County Historical Landmark Commission
59 \$6,601, Maddie Carroll House (Cabell) \$6,188, Marshall County
60 Historical Society \$7,013, McCoy Theater (Hardy) \$16,502,
61 Morgantown Theater Company (Monongalia) \$16,502,
62 Mountaineer Boys' State (Lewis) \$8,251, Nicholas Old Main
63 Foundation (Nicholas) \$1,650, Norman Dillon Farm Museum
64 (Berkeley) \$8,251, Old Opera House Theater Company
65 (Jefferson) \$12,376, Parkersburg Arts Center (Wood) \$16,502,
66 Pocahontas Historic Opera House \$4,950, Raleigh County All
67 Wars Museum \$8,251, Rhododendron Girl's State (Ohio) \$8,251,
68 Roane County 4-H and FFA Youth Livestock Program \$4,125,
69 Scottish Heritage Society/N. Central WV (Harrison) \$4,125,
70 Society for the Preservation of McGrew House (Preston) \$2,888,
71 Southern West Virginia Veterans' Museum \$4,713, Summers
72 County Historic Landmark Commission \$4,125, Those Who
73 Served War Museum (Mercer) \$3,300, Three Rivers Avian
74 Center (Summers) \$7,376, Tug Valley Arts Council (Mingo)
75 \$4,125, Tug Valley Chamber of Commerce Coal House (Mingo)
76 \$1,650, Tunnelton Historical Society (Preston) \$1,650, Veterans
77 Committee for Civic Improvement of Huntington (Wayne)
78 \$4,125, West Virginia Museum of Glass (Lewis) \$4,125, West
79 Virginia Music Hall of Fame (Kanawha) \$28,878, YMCA Camp
80 Horseshoe (Tucker) \$82,508, Youth Museum of Southern West
81 Virginia (Raleigh) \$9,901, Z.D. Ramsdell House (Wayne)
82 \$1,000.

83 From the above appropriation for Fairs and Festivals (fund
84 3534, appropriation 12200) funding shall be provided to A
85 Princeton 4th (Mercer) \$2,500, African-American Cultural
86 Heritage Festival (Jefferson) \$4,125, Alderson 4th of July

87 Celebration (Greenbrier) \$4,125, Allegheny Echo (Pocahontas)
88 \$6,189, Alpine Festival/Leaf Peepers Festival (Tucker) \$9,282,
89 American Civil War (Grant) \$4,343, American Legion Post 8
90 Veterans Day Parade (McDowell) \$1,737, Angus Beef and
91 Cattle Show (Lewis) \$1,238, Annual Birch River Days
92 (Nicholas) \$1,800, Annual Don Redman Heritage Concert &
93 Awards (Jefferson) \$1,303, Annual Ruddle Park Jamboree
94 (Pendleton) \$6,514, Antique Market Fair (Lewis) \$1,650, Apollo
95 Theater-Summer Program (Berkeley) \$1,650, Apple Butter
96 Festival (Morgan) \$4,950, Arkansaw Homemaker's Heritage
97 Weekend (Hardy) \$2,888, Armed Forces Day-South Charleston
98 (Kanawha) \$2,475, Arthurdale Heritage New Deal Festival
99 (Preston) \$4,125, Athens Town Fair (Mercer) \$1,650, Augusta
100 Fair (Randolph) \$4,125, Autumn Harvest Fest (Monroe) \$3,400,
101 Barbour County Fair \$20,627, Barboursville Octoberfest
102 (Cabell) \$4,125, Bass Festival (Pleasants) \$1,527, Battelle
103 District Fair (Monongalia) \$4,125, Battle of Dry Creek
104 (Greenbrier) \$1,238, Battle of Point Pleasant Memorial
105 Committee (Mason) \$4,125, Belle Town Fair (Kanawha) \$3,713,
106 Belleville Homecoming (Wood) \$16,502, Bergoo Down Home
107 Days (Webster) \$2,063, Berkeley County Youth Fair \$15,264,
108 Black Bear 4K Mountain Bike Race (Kanawha) \$1,025, Black
109 Heritage Festival (Harrison) \$4,950, Black Walnut Festival
110 (Roane) \$8,251, Blast from the Past (Upshur) \$2,000, Blue-Gray
111 Reunion (Barbour) \$2,888, Boone County Fair \$8,251, Boone
112 County Labor Day Celebration \$3,300, Bradshaw Fall Festival
113 (McDowell) \$1,650, Brandonville Heritage Day (Preston)
114 \$1,455, Braxton County Fair \$9,489, Braxton County Monster
115 Fest / West Virginia Autumn Festival \$2,063, Brooke County
116 Fair \$2,888, Bruceton Mills Good Neighbor Days (Preston)
117 \$1,650, Buckwheat Festival (Preston) \$7,014, Buffalo 4th of July
118 Celebration (Putnam) \$550, Buffalo October Fest (Putnam)
119 \$4,500, Burlington Apple Harvest Festival (Mineral) \$24,752,
120 Burlington Pumpkin Harvest Festival (Raleigh) \$4,125,
121 Burnsville Harvest Festival (Braxton) \$1,954, Cabell County

122 Fair \$8,251, Calhoun County Wood Festival \$1,650, Campbell's
123 Creek Community Fair (Kanawha) \$2,063, Cape Coalwood
124 Festival Association (McDowell) \$2,063, Capon Bridge
125 Founders Day Festival (Hampshire) \$1,650, Capon Springs
126 Ruritan 4th of July (Hampshire) \$1,025, Cass Homecoming
127 (Pocahontas) \$1,650, Cedarville Town Festival (Gilmer) \$1,025,
128 Celebration in the Park (Wood) \$3,300, Celebration of America
129 (Monongalia) \$4,950, Ceredo Freedom Festival (Wayne) \$1,048,
130 Chapmanville Apple Butter Festival (Logan) \$1,025,
131 Chapmanville Fire Department 4th of July (Logan) \$2,475,
132 Charles Town Christmas Festival (Jefferson) \$4,125, Charles
133 Town Heritage Festival (Jefferson) \$4,125, Cherry River
134 Festival (Nicholas) \$5,363, Chester Fireworks (Hancock)
135 \$1,238, Chester 4th of July Festivities (Hancock) \$4,125, Chief
136 Logan State Park-Civil War Celebration (Logan) \$6,601,
137 Chilifest West Virginia State Chili Championship (Cabell)
138 \$2,171, Christmas In Our Town (Marion) \$4,343, Christmas in
139 Shepherdstown (Jefferson) \$3,300, Christmas in the Park
140 (Brooke) \$4,125, Christmas in the Park (Logan) \$20,627, City of
141 Dunbar Critter Dinner (Kanawha) \$8,251, City of Logan Polar
142 Express (Logan) \$6,189, City of New Martinsville Festival of
143 Memories (Wetzel) \$9,076, Clay County Golden Delicious
144 Apple Festival \$5,776, Clay District Fair (Monongalia) \$1,500,
145 Coal Field Jamboree (Logan) \$28,878, Coalton Days Fair
146 (Randolph) \$5,776, Country Roads Festival (Fayette) \$1,650,
147 Cowen Railroad Festival (Webster) \$2,888, Craigsville Fall
148 Festival (Nicholas) \$2,888, Cruise into Princeton (Mercer)
149 \$3,000, Culturefest World Music & Arts Festival (Mercer)
150 \$6,514, Delbarton Homecoming (Mingo) \$2,888, Doddridge
151 County Fair \$5,776, Dorcas Ice Cream Social (Grant) \$4,950,
152 Durbin Days (Pocahontas) \$4,125, Elbert/Filbert Reunion
153 Festival (McDowell) \$1,238, Elkins Randolph County 4th of
154 July Car Show (Randolph) \$1,650, Fairview 4th of July
155 Celebration (Marion) \$1,025, Farm Safety Day (Preston) \$1,650,
156 Farmer's Day Festival (Monroe) \$3,237, Farmers' Day Parade

157 (Wyoming) \$1,000, Fenwick Mountain Old Time Community
158 Festival (Nicholas) \$4,000, FestivALL Charleston (Kanawha)
159 \$16,502, Flatwoods Days (Braxton) \$1,048, Flemington Day
160 Fair and Festival (Taylor) \$2,888, Follansbee Community Days
161 (Brooke) \$6,807, Fort Gay Mountain Heritage Days (Wayne)
162 \$4,125, Fort Henry Days (Ohio) \$4,373, Fort Henry Living
163 History (Ohio) \$2,171, Fort New Salem Spirit of Christmas
164 Festival (Harrison) \$3,378, Frankford Autumnfest (Greenbrier)
165 \$4,125, Franklin Fishing Derby (Pendleton) \$6,189, Freshwater
166 Folk Festival (Greenbrier) \$4,125, Friends Auxiliary of W.R.
167 Sharpe Hospital (Lewis) \$4,125, Frontier Days (Harrison)
168 \$2,475, Frontier Fest/Canaan Valley (Taylor) \$4,125, Fund for
169 the Arts-Wine & All that Jazz Festival (Kanawha) \$2,063,
170 Gassaway Days Celebration (Braxton) \$4,125, Gilbert
171 Elementary Fall Blast (Mingo) \$3,039, Gilbert Kiwanis Harvest
172 Festival (Mingo) \$3,300, Gilbert Spring Fling (Mingo) \$4,993,
173 Gilmer County Farm Show \$3,300, Grant County Arts Council
174 \$1,650, Grape Stomping Wine Festival (Nicholas) \$1,650, Great
175 Greenbrier River Race (Pocahontas) \$8,251, Greater Quinwood
176 Days (Greenbrier) \$1,086, Guyandotte Civil War Days (Cabell)
177 \$8,251, Hamlin 4th of July Celebration (Lincoln) \$4,125,
178 Hampshire Civil War Celebration Days (Hampshire) \$1,025,
179 Hampshire County 4th of July Celebration \$16,502, Hampshire
180 County Fair \$6,948, Hampshire Heritage Days (Hampshire)
181 \$3,300, Hancock County Oldtime Fair \$4,125, Hardy County
182 Commission - 4th of July \$8,251, Hatfield McCoy Matewan
183 Reunion Festival (Mingo) \$17,125, Hatfield McCoy Trail
184 National ATV and Dirt Bike Weekend (Wyoming) \$4,125,
185 Heat'n the Hills Chilifest (Lincoln) \$3,474, Heritage Craft
186 Festival (Monroe) \$1,450, Heritage Days Festival (Roane)
187 \$1,238, Hilltop Festival (Cabell) \$1,025, Hilltop Festival of
188 Lights (McDowell) \$1,650, Hinton Railroad Days (Summers)
189 \$6,038, Holly River Festival (Webster) \$1,238, Hometown
190 Mountain Heritage Festival (Fayette) \$3,378, Hundred 4th of
191 July (Wetzel) \$5,982, Hundred American Legion Earl Kiger Post

192 Bluegrass Festival (Wetzel) \$1,650, Hurricane 4th of July
193 Celebration (Putnam) \$4,125, Iaeger Town Fair (McDowell)
194 \$1,238, Irish Heritage Festival of West Virginia (Raleigh)
195 \$4,125, Irish Spring Festival (Lewis) \$1,025, Italian Heritage
196 Festival-Clarksburg (Harrison) \$24,752, Jackson County Fair
197 \$4,125, Jamboree (Pocahontas) \$4,125, Jane Lew Arts and
198 Crafts Fair (Lewis) \$1,025, Jefferson County Fair Association
199 \$20,627, Jersey Mountain Ruritan Pioneer Days (Hampshire)
200 \$1,025, John Henry Days Festival (Monroe) \$6,525, Johnnie
201 Johnson Blues and Jazz Festival (Marion) \$4,125, Johnstown
202 Community Fair (Harrison) \$2,063, Junior Heifer Preview Show
203 (Lewis) \$1,650, Kanawha Coal Riverfest-St. Albans 4th of July
204 Festival (Kanawha) \$4,125, Keeper of the Mountains-Kayford
205 (Kanawha) \$2,063, Kenova Autumn Festival (Wayne) \$6,080,
206 Kermit Fall Festival (Mingo) \$2,475, Keystone Reunion Gala
207 (McDowell) \$2,171, King Coal Festival (Mingo) \$4,125,
208 Kingwood Downtown Street Fair and Heritage Days (Preston)
209 \$1,650, L.Z. Rainelle West Virginia Veterans Reunion
210 (Greenbrier) \$4,125, Lady of Agriculture (Preston) \$1,025, Larry
211 Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo)
212 \$8,251, Larry Joe Harless Community Center Spring Middle
213 School Event (Mingo) \$4,125, Last Blast of Summer
214 (McDowell) \$4,125, Lewis County Fair Association \$2,888,
215 Lewisburg Shanghai (Greenbrier) \$1,650, Lincoln County Fall
216 Festival \$6,601, Lincoln County Winterfest \$4,125, Lindsie
217 Veterans' Day Parade \$1,000, Little Levels Heritage Festival
218 (Pocahontas) \$1,650, Lost Creek Community Festival (Harrison)
219 \$5,776, Main Street Arts Festival (Upshur) \$4,343, Main Street
220 Martinsburg Chocolate Fest and Book Fair (Berkeley) \$3,908,
221 Mannington District Fair (Marion) \$4,950, Maple Syrup Festival
222 (Randolph) \$1,025, Marion County FFA Farm Fest \$2,063,
223 Marmet Labor Day Celebration (Kanawha) \$4,275, Marshall
224 County Antique Power Show \$2,063, Marshall County Fair
225 \$6,189, Mason County Fair \$4,125, Mason Dixon Festival
226 (Monongalia) \$5,776, Matewan Massacre Reenactment (Mingo)

227 \$6,950, Matewan-Magnolia Fair (Mingo) \$22,128,
228 McARTS-McDowell County \$16,502, McDowell County Fair
229 \$2,063, McGrew House History Day (Preston) \$1,650,
230 McNeill's Rangers (Mineral) \$6,601, Meadow Bridge Hometown
231 Festival (Fayette) \$1,032, Meadow River Days Festival
232 (Greenbrier) \$2,475, Mercer Bluestone Valley Fair (Mercer)
233 \$1,650, Mercer County Fair \$1,650, Mercer County Heritage
234 Festival \$4,825, Mid Ohio Valley Antique Engine Festival
235 (Wood) \$2,475, Milton Christmas in the Park (Cabell) \$2,063,
236 Milton 4th of July Celebration (Cabell) \$2,063, Mineral County
237 Fair \$1,444, Mineral County Veterans Day Parade \$1,238,
238 Molasses Festival (Calhoun) \$1,650, Monongahfest (Marion)
239 \$5,211, Moon Over Mountwood Fishing Festival (Wood)
240 \$2,475, Morgan County Fair-History Wagon \$1,238,
241 Moundsville Bass Festival (Marshall) \$3,300, Moundsville July
242 4th Celebration (Marshall) \$4,125, Mount Liberty Fall Festival
243 (Barbour) \$2,063, Mountain Fest (Monongalia) \$16,502,
244 Mountain Festival (Mercer) \$3,816, Mountain Heritage Arts and
245 Crafts Festival (Jefferson) \$4,125, Mountain Music Festival
246 (McDowell) \$2,063, Mountain State Apple Harvest Festival
247 (Berkeley) \$6,189, Mountain State Arts & Crafts Fair Cedar
248 Lakes (Jackson) \$37,128, Mountaineer Hot Air Balloon Festival
249 (Monongalia) \$3,300, Mullens Dogwood Festival (Wyoming)
250 \$5,776, Multi-Cultural Festival of West Virginia (Kanawha)
251 \$16,502, Music and Barbecue - Banks District VFD (Upshur)
252 \$1,776, New Cumberland Christmas Parade (Hancock) \$2,475,
253 New Cumberland 4th of July (Hancock) \$4,125, New River
254 Bridge Day Festival (Fayette) \$33,003, Newburg Volunteer
255 Fireman's Field Day (Preston) \$1,025, Nicholas County Fair
256 \$4,125, Nicholas County Potato Festival \$2,888, Oak Leaf
257 Festival (Fayette) \$8,685, Oceana Heritage Festival (Wyoming)
258 \$4,950, Oglebay City Park - Festival of Lights (Ohio) \$66,006,
259 Oglebay Festival (Ohio) \$8,251, Ohio County Country Fair
260 \$7,426, Ohio River Fest (Jackson) \$6,000, Ohio Valley Beef
261 Association (Wood) \$2,063, Ohio Valley Black Heritage

262 Festival (Ohio) \$4,538, Old Central City Fair (Cabell) \$4,125,
263 Old Century City Fair (Barbour) \$1,737, Old Tyme Christmas
264 (Jefferson) \$1,980, Paden City Labor Day Festival (Wetzel)
265 \$5,363, Parkersburg Homecoming (Wood) \$12,159, Patty Fest
266 (Monongalia) \$1,650, Paw Paw District Fair (Marion) \$2,888,
267 Pax Reunion Committee (Fayette) \$4,125, Pendleton County 4-H
268 Weekend \$1,650, Pendleton County Committee for Arts
269 \$12,376, Pendleton County Fair \$8,685, Pennsboro Country
270 Road Festival (Ritchie) \$1,650, Petersburg 4th of July
271 Celebration (Grant) \$16,502, Petersburg HS Celebration (Grant)
272 \$8,251, Piedmont-Annual Back Street Festival (Mineral) \$3,300,
273 Pinch Reunion (Kanawha) \$1,238, Pine Bluff Fall Festival
274 (Harrison) \$3,300, Pine Grove 4th of July Festival (Wetzel)
275 \$5,776, Pineville Festival (Wyoming) \$4,950, Pleasants County
276 Agriculture Youth Fair \$4,125, Poca Heritage Days (Putnam)
277 \$2,475, Pocahontas County Pioneer Days \$5,776, Point
278 Pleasant Stern Wheel Regatta (Mason) \$4,125, Pratt Fall Festival
279 (Kanawha) \$2,063, Princeton Autumnfest (Mercer) \$2,171,
280 Princeton Street Fair (Mercer) \$4,125, Putnam County Fair
281 \$4,125, Quartets on Parade (Hardy) \$3,300, Rainelle Fall
282 Festival (Greenbrier) \$4,343, Rand Community Center Festival
283 (Kanawha) \$2,063, Randolph County Community Arts Council
284 \$2,475, Randolph County Fair \$5,776, Randolph County Ramp
285 and Rails \$1,650, Ranson Christmas Festival (Jefferson) \$4,125,
286 Ranson Festival (Jefferson) \$4,125, Renick Liberty Festival
287 (Greenbrier) \$1,025, Ripley 4th of July (Jackson) \$12,376,
288 Ritchie County Fair and Exposition \$4,125, Ritchie County
289 Pioneer Days \$1,025, River City Festival (Preston) \$1,025,
290 Roane County Agriculture Field Day \$2,475, Rock the Park
291 (Kanawha) \$4,500, Rocket Boys Festival (Raleigh) \$2,375,
292 Romney Heritage Days (Hampshire) \$2,606, Ronceverte River
293 Festival (Greenbrier) \$4,125, Rowlesburg Labor Day Festival
294 (Preston) \$1,025, Rupert Country Fling (Greenbrier) \$2,475,
295 Saint Spyridon Greek Festival (Harrison) \$2,063, Salem Apple
296 Butter Festival (Harrison) \$3,300, Sistersville 4th of July (Tyler)

297 \$4,538, Skirmish on the River (Mingo) \$1,737, Smoke on the
298 Water (Wetzel) \$2,475, South Charleston Summerfest
299 (Kanawha) \$8,251, Southern Wayne County Fall Festival
300 \$1,025, Spirit of Grafton Celebration (Taylor) \$8,251,
301 Springfield Peach Festival (Hampshire) \$1,026, St. Albans City
302 of Lights - December (Kanawha) \$4,125, Sternwheel Festival
303 (Wood) \$2,475, Stoco Reunion (Raleigh) \$2,063, Stonewall
304 Jackson Heritage Arts & Crafts Jubilee (Lewis) \$9,076,
305 Stonewall Jackson's Roundhouse Raid (Berkeley) \$10,000,
306 Storytelling Festival (Lewis) \$550, Strawberry Festival (Upshur)
307 \$24,752, Sylvester Big Coal River Festival \$2,700, Tacy Fair
308 (Barbour) \$1,025, Taste of Parkersburg (Wood) \$4,125, Taylor
309 County Fair \$4,538, Terra Alta VFD 4th of July Celebration
310 (Preston) \$1,025, The Gathering at Sweet Creek (Wood) \$2,475,
311 Three Rivers Coal Festival (Marion) \$6,394, Thunder on the
312 Tygart - Mothers' Day Celebration (Taylor) \$12,376, Town of
313 Delbarton 4th of July Celebration (Mingo) \$2,475, Town of
314 Fayetteville Heritage Festival (Fayette) \$6,189, Town of
315 Matoaka Hog Roast (Mercer) \$1,025, Town of Rivesville 4th of
316 July Festival (Marion) \$4,343, Town of Winfield - Putnam
317 County Homecoming \$4,500, St. Albans Train Fest (Kanawha)
318 \$8,500, Treasure Mountain Festival (Pendleton) \$20,627,
319 Tri-County Fair (Grant) \$31,318, Tucker County Arts Festival
320 and Celebration \$14,851, Tucker County Fair \$3,919, Tucker
321 County Health Fair \$1,650, Tunnelton Depot Days (Preston)
322 \$1,025, Tunnelton Volunteer Fire Department Festival (Preston)
323 \$1,025, Turkey Festival (Hardy) \$2,475, Tyler County Fair
324 \$4,290, Tyler County 4th of July \$550, Tyler County
325 OctoberFest \$1,000, Union Community Irish Festival (Barbour)
326 \$975, Uniquely West Virginia Festival (Morgan) \$1,650, Upper
327 Kanawha Valley Oktoberfest (Kanawha) \$2,063, Upper Ohio
328 Valley Italian Festival (Ohio) \$9,901, Upshur County Youth
329 Livestock Show \$2,000, Valley District Fair (Preston) \$2,888,
330 Veterans Welcome Home Celebration (Cabell) \$1,303, Vietnam
331 Veterans of America # 949 Christmas Party (Cabell) \$1,025,

332 Volcano Days at Mountwood Park (Wood) \$4,125, War
333 Homecoming Fall Festival (McDowell) \$1,238, Wardensville
334 Fall Festival (Hardy) \$4,125, Wayne County Fair \$4,125, Wayne
335 County Fall Festival \$4,125, Webster County Fair \$5,000,
336 Webster County Wood Chopping Festival \$12,376, Webster
337 Wild Water Weekend \$1,650, Weirton July 4th Celebration
338 (Hancock) \$16,502, Welcome Home Family Day (Wayne)
339 \$2,640, Wellsburg 4th of July Celebration (Brooke) \$6,189,
340 Wellsburg Apple Festival of Brooke County \$4,125, West
341 Virginia Blackberry Festival (Harrison) \$4,125, West Virginia
342 Chestnut Festival (Preston) \$1,025, West Virginia Coal Festival
343 (Boone) \$8,251, West Virginia Coal Show (Mercer) \$2,171,
344 West Virginia Dairy Cattle Show (Lewis) \$8,251, West Virginia
345 Dandelion Festival (Greenbrier) \$4,125, West Virginia Day at
346 the Railroad Museum (Mercer) \$2,500, West Virginia Fair and
347 Exposition (Wood) \$6,684, West Virginia Fireman's Rodeo
348 (Fayette) \$2,063, West Virginia Oil and Gas Festival (Tyler)
349 \$9,076, West Virginia Peach Festival (Hampshire) \$4,500, West
350 Virginia Polled Hereford Association (Braxton) \$1,238, West
351 Virginia Poultry Festival (Hardy) \$4,125, West Virginia
352 Pumpkin Festival (Cabell) \$8,251, West Virginia State Folk
353 Festival (Gilmer) \$4,125, West Virginia Water Festival - City
354 of Hinton (Summers) \$12,701, Weston VFD 4th of July Firemen
355 Festival (Lewis) \$1,650, Wetzel County Autumnfest \$4,538,
356 Wetzel County Town and Country Days \$14,026, Wheeling
357 Celtic Festival (Ohio) \$1,650, Wheeling City of Lights (Ohio)
358 \$6,601, Wheeling Sternwheel Regatta (Ohio) \$8,251, Wheeling
359 Vintage Raceboat Regatta (Ohio) \$16,502, Whipple Community
360 Action (Fayette) \$2,063, Wileyville Homecoming (Wetzel)
361 \$3,300, Wine Festival and Mountain Music Event (Harrison)
362 \$4,125, Winter Festival of the Waters (Berkeley) \$4,125, Wirt
363 County Fair \$2,063, Wirt County Pioneer Days \$1,650,
364 Wyoming County Civil War Days \$1,800, Youth Stockman Beef
365 Expo (Lewis) \$1,650.

366 Any Fairs & Festivals awards shall be funded in addition to,
 367 and not in lieu of, individual grant allocations derived from the
 368 Arts Council and the Cultural Grant Program allocations.

*290 - Library Commission –
 Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2017 Org 0433

1	Books and Films.	17900	\$	360,784
2	Services to Libraries.	18000		550,000
3	Grants to Public Libraries.	18200		9,439,571
4	Digital Resources.	30900		219,992
5	Infomine Network.	88400		<u>858,315</u>
6	Total.		\$	11,428,662

7 Any unexpended balance remaining in the appropriation for
 8 Libraries – Special Projects (fund 3559, appropriation 62500) at
 9 the close of fiscal year 2016 is hereby reappropriated for
 10 expenditure during the fiscal year 2017.

*291 - Bureau of Senior Services –
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2017 Org 0508

1	Personal Services and Employee			
2	Benefits.	00100	\$	195,001
3	Current Expenses.	13000		332,095
4	Repairs and Alterations.	06400		1,000
5	Local Programs Service Delivery			
6	Costs.	20000		2,435,250
7	Silver Haired Legislature.	20200		18,500

8	Transfer to Division of Human		
9	Services for Health Care		
10	and Title XIX Waiver for		
11	Senior Citizens.	53900	20,452,954
12	Roger Tompkins Alzheimer's		
13	Respite Care.	64300	2,297,036
14	WV Alzheimer's Hotline.	72400	45,000
15	Regional Aged and Disabled		
16	Resource Center.	76700	425,000
17	Senior Services Medicaid		
18	Transfer.	87100	8,670,000
19	Legislative Initiatives for the		
20	Elderly.	90400	9,671,239
21	Long Term Care Ombudsman.	90500	297,226
22	BRIM Premium.	91300	6,500
23	In-Home Services and Nutrition for		
24	Senior Citizens.	91700	<u>4,320,941</u>
25	Total.		\$ 49,167,742

26 Any unexpended balance remaining in the appropriation for
 27 Senior Citizen Centers and Programs (fund 5405, appropriation
 28 46200) at the close of the fiscal year 2016 is hereby
 29 reappropriated for expenditure during the fiscal year 2017.

30 Included in the above appropriation for Current Expenses
 31 (fund 5405, appropriation 13000), is funding to support an
 32 in-home direct care workforce registry.

33 The above appropriation for Transfer to Division of Human
 34 Services for Health Care and Title XIX Waiver for Senior
 35 Citizens (appropriation 53900) along with the federal moneys
 36 generated thereby shall be used for reimbursement for services
 37 provided under the program.

*292 - Higher Education Policy Commission –
 Lottery Education –
 Higher Education Policy Commission –
 Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2017 Org 0441

1	RHI Program and Site		
2	Support (R).	03600	\$ 1,912,491
3	RHI Program and Site Support –		
4	RHEP Program		
5	Administration (R).	03700	146,653
6	RHI Program and Site Support –		
7	Grad Med		
8	Ed and Fiscal Oversight (R). . .	03800	87,110
9	Minority Doctoral Fellowship (R)..	16600	129,604
10	Health Sciences Scholarship (R).. .	17600	220,690
11	Vice Chancellor for Health Sciences –		
12	Rural Health Residency		
13	Program (R)..	60100	62,725
14	WV Engineering, Science, and		
15	Technology Scholarship		
16	Program..	86800	<u>452,831</u>
17	Total..		\$ 3,012,104

18 Any unexpended balances remaining in the appropriations
19 for RHI Program and Site Support (fund 4925, appropriation
20 03600), RHI Program and Site Support – RHEP Program
21 Administration (fund 4925, appropriation 03700), RHI Program
22 and Site Support – Grad Med Ed and Fiscal Oversight (fund
23 4925, appropriation 03800), Minority Doctoral Fellowship (fund
24 4925, appropriation 16600), Health Sciences Scholarship (fund
25 4925, appropriation 17600), and Vice Chancellor for Health
26 Sciences – Rural Health Residency Program (fund 4925,
27 appropriation 60100) at the close of fiscal year 2016 are hereby
28 reappropriated for expenditure during the fiscal year 2017.

29 The above appropriation for WV Engineering, Science, and
30 Technology Scholarship Program (appropriation 86800) shall be

31 transferred to the West Virginia Engineering, Science and
32 Technology Scholarship Fund (fund 4928, org 0441) established
33 by W.Va. Code §18C-6-1.

*293 - Community and Technical College –
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2017 Org 0442

1 Debt Service – Total. 31000 \$ 5,000,000

2 Any unexpended balance remaining in the appropriation for
3 Capital Outlay and Improvements – Total (fund 4908,
4 appropriation 84700) at the close of fiscal year 2016 is hereby
5 reappropriated for expenditure during the fiscal year 2017.

*294 - Higher Education Policy Commission –
Lottery Education –
West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2017 Org 0463

1	WVU Health Sciences –		
2	RHI Program and		
3	Site Support (R).....	03500	\$ 1,158,437
4	MA Public Health Program and		
5	Health Science		
6	Technology (R).....	62300	54,798
7	Health Sciences Career Opportunities		
8	Program (R).....	86900	334,296
9	HSTA Program (R).	87000	1,705,198
10	Center for Excellence in		
11	Disabilities (R).	96700	<u>306,019</u>
12	Total.....		\$ 3,558,748

13 Any unexpended balances remaining in the appropriations
 14 for WVU Health Sciences – RHI Program and Site Support
 15 (fund 4185, appropriation 03500), MA Public Health Program
 16 and Health Science Technology (fund 4185, appropriation
 17 62300), Health Sciences Career Opportunities Program (fund
 18 4185, appropriation 86900), HSTA Program (fund 4185,
 19 appropriation 87000), and Center for Excellence in Disabilities
 20 (fund 4185, appropriation 96700) at the close of fiscal year 2016
 21 are hereby reappropriated for expenditure during the fiscal year
 22 2017.

*295 - Higher Education Policy Commission –
 Lottery Education –
 Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2017 Org 0471

1	Marshall Medical School –		
2	RHI Program and Site		
3	Support (R).	03300	\$ 414,486
4	Vice Chancellor for Health Sciences –		
5	Rural Health Residency		
6	Program (R)	60100	<u>171,400</u>
7	Total.		\$ <u>585,886</u>

8 Any unexpended balances remaining in the appropriations
 9 for Marshall Medical School – RHI Program and Site Support
 10 (fund 4896, appropriation 03300) and Vice Chancellor for
 11 Health Sciences – Rural Health Residency Program (fund 4896,
 12 appropriation 60100) at the close of fiscal year 2016 are hereby
 13 reappropriated for expenditure during the fiscal year 2017.

14 Total TITLE II, Section 4 —
 15 Lottery Revenue. \$ 135,561,119

1 **Sec. 5. Appropriations from state excess lottery revenue**
 2 **fund.** — In accordance with W.Va. Code §29-22-18a,
 3 §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the
 4 following appropriations shall be deposited and disbursed by the
 5 Director of the Lottery to the following accounts in this section
 6 in the amounts indicated.

7 After first funding the appropriations required by W.Va.
 8 Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and
 9 §29-25-22b, the Director of the Lottery shall provide funding
 10 from the State Excess Lottery Revenue Fund for the remaining
 11 appropriations in this section to the extent that funds are
 12 available. In the event that revenues to the State Excess Lottery
 13 Revenue Fund are sufficient to meet all the appropriations
 14 required made pursuant to this section, then the Director of the
 15 Lottery shall then provide the funds available for fund 5365,
 16 appropriation 18900.

*296 - Lottery Commission –
 Refundable Credit*

Fund 7207 FY 2017 Org 0705

	Appro- piation	Excess Lottery Funds
1 Directed Transfer.....	70000	\$ 10,000,000

2 The above appropriation shall be transferred to the General
 3 Revenue Fund to provide reimbursement for the refundable
 4 credit allowable under W.Va. Code §11-21-21. The amount of
 5 the required transfer shall be determined solely by the state tax
 6 commissioner and shall be completed by the director of the
 7 lottery upon the commissioner’s request.

*297 - Lottery Commission –
General Purpose Account*

Fund 7206 FY 2017 Org 0705

1 General Revenue Fund – Transfer.. 70011 \$ 65,000,000

2 The above appropriation shall be transferred to the General
3 Revenue Fund as determined by the director of the lottery in
4 accordance with W.Va. Code §29-22-18a.

*298 - Higher Education Policy Commission –
Education Improvement Fund*

Fund 4295 FY 2017 Org 0441

1 PROMISE Scholarship – Transfer.. 80000 \$ 29,000,000

2 The above appropriation shall be transferred to the
3 PROMISE Scholarship Fund (fund 4296, org 0441) established
4 by W.Va. Code §18C-7-7.

5 The Legislature has explicitly set a finite amount of
6 available appropriations and directed the administrators of the
7 Program to provide for the award of scholarships within the
8 limits of available appropriations.

*299 - Economic Development Authority –
Economic Development Project Fund*

Fund 9065 FY 2017 Org 0944

1 Debt Service – Total. 31000 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess
3 lottery revenues are authorized to be transferred to the lottery
4 fund as reimbursement of amounts transferred to the economic
5 development project fund pursuant to section four of this title
6 and W.Va. Code §29-22-18, subsection (f).

*300 - Department of Education –
School Building Authority*

Fund 3514 FY 2017 Org 0402

1 Debt Service – Total. 31000 \$ 19,000,000

*301 - West Virginia Infrastructure Council –
West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2017 Org 0316

1 Directed Transfer. 70000 \$ 36,000,000

2 The above appropriation shall be allocated pursuant to
3 W.Va. Code §29-22-18d and §31-15-9.

*302 - Higher Education Policy Commission –
Higher Education Improvement Fund*

Fund 4297 FY 2017 Org 0441

1 Directed Transfer. 70000 \$ 15,000,000

2 The above appropriation shall be transferred to fund 4903,
3 org 0442 as authorized by Senate Concurrent Resolution No. 41.

*303 - Division of Natural Resources
State Park Improvement Fund*

Fund 3277 FY 2017 Org 0310

1	Current Expenses (R).....	13000	\$	2,438,300
2	Repairs and Alterations (R).....	06400		2,161,200
3	Equipment (R).....	07000		200,000
4	Buildings (R).....	25800		100,000
5	Other Assets (R).....	69000		<u>100,500</u>
6	Total.....		\$	5,000,000

7 Any unexpended balances remaining in the above
 8 appropriations for Repairs and Alterations (fund 3277,
 9 appropriation 06400), Equipment (fund 3277, appropriation
 10 07000), Unclassified – Total (fund 3277, appropriation 09600),
 11 Unclassified (fund 3277, appropriation 09900), Current
 12 Expenses (fund 3277, appropriation 13000), Buildings (fund
 13 3277, appropriation 25800), and Other Assets (fund 3277,
 14 appropriation 69000) at the close of the fiscal year 2016 are
 15 hereby reappropriated for expenditure during the fiscal year
 16 2017.

304 - Racing Commission –

Fund 7308 FY 2017 Org 0707

1	Special Breeders Compensation		
2	(WVC §29-22-18a,		
3	subsection (l)).	21800	\$ 2,000,000

305 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2017 Org 0705

1	Parking Garage Fund – Transfer. . .	70001	\$ 500,000
2	2004 Capitol Complex Parking		
3	Garage Fund – Transfer.	70002	254,147
4	Capitol Dome and Improvements		
5	Fund – Transfer.	70003	2,155,201
6	Capitol Renovation and Improvement		
7	Fund – Transfer.	70004	2,795,627
8	Development Office Promotion		
9	Fund – Transfer.	70005	1,524,887
10	Research Challenge Fund –		
11	Transfer.	70006	2,033,184
12	Tourism Promotion Fund –		
13	Transfer.	70007	5,659,115

14	Cultural Facilities and Capitol		
15	Resources Matching		
16	Grant Program Fund –		
17	Transfer.	70008	1,433,371
18	Workers’ Compensation Debt		
19	Reduction Fund – Transfer. . . .	70009	11,000,000
20	State Debt Reduction Fund –		
21	Transfer.	70010	20,000,000
22	General Revenue Fund – Transfer..	70011	1,547,672
23	West Virginia Racing Commission		
24	Racetrack Video Lottery		
25	Account.	70012	4,066,363
26	Licensed Racetrack Regular		
27	Purse Fund.	70014	<u>10,110,605</u>
28	Total.		\$ 63,080,172

306 - Governor’s Office

(WV Code Chapter 5)

Fund 1046 FY 2017 Org 0100

1 Any unexpended balance remaining in the appropriation for
2 Publication of Papers and Transition Expenses – Lottery Surplus
3 (fund 1046, appropriation 06600) at the close of the fiscal year
4 2016 is hereby reappropriated for expenditure during the fiscal
5 year 2017.

307 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2017 Org 0307

1 Any unexpended balances remaining in the appropriations
2 for Unclassified – Total (fund 3170, appropriation 09600),
3 Recreational Grants or Economic Development Loans (fund

4 3170, appropriation 25300), and Connectivity Research and
 5 Development – Lottery Surplus (fund 3170, appropriation
 6 92300) at the close of the fiscal year 2016 are hereby
 7 reappropriated for expenditure during the fiscal year 2017.

*308 - Higher Education Policy Commission –
 Administration –
 Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2017 Org 0441

1 Any unexpended balance remaining in the appropriation for
 2 Advanced Technology Centers (fund 4932, appropriation 02800)
 3 at the close of the fiscal year 2016 is hereby reappropriated for
 4 expenditure during the fiscal year 2017.

*309 - Division of Health –
 Central Office*

(WV Code Chapter 16)

Fund 5219 FY 2017 Org 0506

1 Any unexpended balance remaining in the appropriation for
 2 Capital Outlay and Maintenance (fund 5219, appropriation
 3 75500) at the close of the fiscal year 2016 is hereby
 4 reappropriated for expenditure during the fiscal year 2017.

310 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2017 Org 0511

1 Medical Services. 18900 \$ 46,881,453

*311 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2017 Org 0608

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 6283, appropriation
3 75500) at the close of the fiscal year 2016 is hereby
4 reappropriated for expenditure during the fiscal year 2017.

5 Total TITLE II, Section 5 —

6 Excess Lottery Funds. \$ 309,961,625

1 **Sec. 6. Appropriations of federal funds.** — In accordance
2 with Article 11, Chapter 4 of the Code from federal funds there
3 are hereby appropriated conditionally upon the fulfillment of the
4 provisions set forth in Article 2, Chapter 11B of the Code the
5 following amounts, as itemized, for expenditure during the fiscal
6 year 2017.

LEGISLATIVE

312 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2017 Org 2300

	Appro- priation	Federal Funds
1 Economic Loss Claim Payment		
2 Fund.....	33400	\$ 3,000,000

JUDICIAL*313 - Supreme Court*Fund 8867 FY 2017 Org 2400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,008,000
3	Current Expenses.	13000	<u>2,542,000</u>
4	Total.		\$ 4,550,000

EXECUTIVE*314 - Governor's Office*

(WV Code Chapter 5)

Fund 8742 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 86,677
3	Current Expenses.	13000	<u>138,323</u>
4	Total.		\$ 225,000

315 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,563,760
3	Unclassified.	09900	50,534
4	Current Expenses.	13000	3,828,661
5	Repairs and Alterations.	06400	650,000
6	Equipment.	07000	910,500
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 7,053,455

*316 - Department of Agriculture –
Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 610,830
3	Unclassified.	09900	8,755
4	Current Expenses.	13000	136,012
5	Repairs and Alterations.	06400	5,500
6	Equipment.	07000	114,478
7	Total.		\$ 875,575

*317 - Department of Agriculture –
State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 97,250
3	Current Expenses.	13000	14,099,974
4	Total.		\$ 14,197,224

*318 - Department of Agriculture –
Land Protection Authority*

Fund 8896 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 46,526
3	Unclassified.	09900	5,004
4	Current Expenses.	13000	448,920
5	Total.		\$ 500,450

*319 - Secretary of State –
State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 210,240
3	Unclassified.	09900	7,484
4	Current Expenses.	13000	415,727
5	Repairs and Alterations.	06400	15,000
6	Other Assets.	69000	<u>100,000</u>
7	Total.		\$ 748,451

DEPARTMENT OF COMMERCE

320 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,578,347
3	Unclassified.	09900	51,050
4	Current Expenses.	13000	5,632,560
5	Repairs and Alterations.	06400	155,795
6	Equipment.	07000	100,000
7	Other Assets.	69000	<u>1,808,300</u>
8	Total.		\$ 9,326,052

321 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2017 Org 0306

1	Personal Services and Employee		
2	Benefits.	00100	\$ 54,432

3	Unclassified.	09900		2,803
4	Current Expenses.	13000		195,639
5	Repairs and Alterations.	06400		5,000
6	Equipment.	07000		7,500
7	Other Assets.	69000		<u>15,000</u>
8	Total.		\$	280,374

322 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2017 Org 0307

1	Personal Services and Employee			
2	Benefits.	00100	\$	745,981
3	Unclassified.	09900		50,000
4	Current Expenses.	13000		<u>4,504,019</u>
5	Total.		\$	5,300,000

323 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2017 Org 0308

1	Personal Services and Employee			
2	Benefits.	00100	\$	384,072
3	Unclassified.	09900		5,572
4	Current Expenses.	13000		167,098
5	Repairs and Alterations.	06400		<u>500</u>
6	Total.		\$	557,242

324 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2017 Org 0310

1	Personal Services and Employee			
2	Benefits.	00100	\$	7,912,218

11 and Current Expenses shall be used by WorkForce West Virginia
 12 for the specific purpose of administration of the state’s
 13 unemployment insurance program or job service activities,
 14 subject to each and every restriction, limitation or obligation
 15 imposed on the use of the funds by those federal and state
 16 statutes.

*327 - Office of the Secretary –
 Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8780 FY 2017 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 497,289
3	Unclassified.	09900	106,795
4	Current Expenses.	13000	10,068,916
5	Repairs and Alterations.	06400	500
6	Equipment.	07000	<u>6,000</u>
7	Total.		\$ 10,679,500

328 - Division of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2017 Org 0328

1	Personal Services and Employee		
2	Benefits.	00100	\$ 411,574
3	Unclassified.	09900	7,350
4	Current Expenses.	13000	<u>316,076</u>
5	Total.		\$ 735,000

DEPARTMENT OF EDUCATION

*329 - State Board of Education –
 State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 7,078,855
3	Unclassified.	09900	2,000,000
4	Current Expenses.	13000	210,917,820
5	Repairs and Alterations.	06400	10,000
6	Equipment.	07000	10,000
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 220,026,675

*330 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,992,648
3	Unclassified.	09900	1,150,500
4	Current Expenses.	13000	128,101,265
5	Repairs and Alterations.	06400	20,000
6	Equipment.	07000	100,000
7	Other Assets.	69000	<u>25,000</u>
8	Total.		\$ 131,389,413

*331 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,519,972

3	Unclassified.	09900		155,000
4	Current Expenses.	13000		14,320,081
5	Repairs and Alterations.	06400		10,000
6	Equipment.	07000		10,000
7	Other Assets.	69000		10,000
8	Total.		\$	16,025,053

*332 - State Board of Education –
Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.	00100	\$	4,044,940
3	Unclassified.	09900		1,000,000
4	Current Expenses.	13000		107,646,390
5	Repairs and Alterations.	06400		10,000
6	Equipment.	07000		10,000
7	Other Assets.	69000		10,000
8	Total.		\$	112,721,330

DEPARTMENT OF EDUCATION AND THE ARTS

*333 - Department of Education and the Arts –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 8841 FY 2017 Org 0431

1	Personal Services and Employee			
2	Benefits.	00100	\$	414,424
3	Current Expenses.	13000		5,589,576
4	Repairs and Alterations.	06400		1,000
5	Total.		\$	6,005,000

334 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 743,046
3	Current Expenses.	13000	1,947,372
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	1,000
6	Buildings.	25800	1,000
7	Other Assets.	69000	1,000
8	Land.	73000	<u>360</u>
9	Total.		\$ 2,694,778

335 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2017 Org 0433

1	Personal Services and Employee		
2	Benefits.	00100	\$ 333,648
3	Current Expenses.	13000	1,076,162
4	Equipment.	07000	<u>543,406</u>
5	Total.		\$ 1,953,216

336 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2017 Org 0439

1	Equipment.	07000	\$ 750,000
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*337 - State Board of Rehabilitation –
Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 11,248,930
3	Current Expenses.	13000	54,485,940
4	Repairs and Alterations.	06400	350,400
5	Equipment.	07000	<u>1,275,870</u>
6	Total.		\$ 67,361,140

*338 - State Board of Rehabilitation –
Division of Rehabilitation Services –
Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 13,730,634
3	Current Expenses.	13000	11,383,206
4	Repairs and Alterations.	06400	1,100
5	Equipment.	07000	<u>83,350</u>
6	Total.		\$ 25,198,290

DEPARTMENT OF ENVIRONMENTAL PROTECTION

339 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 28,402,177
3	Current Expenses.	13000	164,785,225
4	Repairs and Alterations.	06400	230,783
5	Equipment.	07000	725,238
6	Unclassified.	09900	1,900,000

2016]

HOUSE OF DELEGATES

2535

7	Other Assets.....	69000		154,416
8	Land.....	73000		<u>100,000</u>
9	Total.....		\$	196,297,839

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

340 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2017 Org 0506

1	Personal Services and Employee			
2	Benefits.....	00100	\$	750,876
3	Unclassified.....	09900		73,307
4	Current Expenses.....	13000		<u>6,630,103</u>
5	Total.....		\$	7,454,286

341 - Division of Health – Central Office

(WV Code Chapter 16)

Fund 8802 FY 2017 Org 0506

1	Personal Services and Employee			
2	Benefits.....	00100	\$	13,744,404
3	Unclassified.....	09900		947,948
4	Current Expenses.....	13000		79,110,551
5	Equipment.....	07000		456,972
6	Buildings.....	25800		155,000
7	Other Assets.....	69000		<u>380,000</u>
8	Total.....		\$	94,794,875

342 - Division of Health – West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2017 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund – Transfer. . . .	68900	\$ 16,000,000

343 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2017 Org 0507

1	Unclassified.	09900	\$ 9,966
2	Current Expenses.	13000	<u>986,649</u>
3	Total.		\$ 996,615

344 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2017 Org 0510

1	Personal Services and Employee		
2	Benefits.	00100	\$ 625,349
3	Unclassified.	09900	5,482
4	Current Expenses.	13000	<u>140,389</u>
5	Total.		\$ 771,220

345 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 8722 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 68,841,330
3	Unclassified.	09900	22,855,833
4	Current Expenses.	13000	72,056,205
5	Medical Services.	18900	2,884,265,405
6	Medical Services Administrative		
7	Costs.	78900	132,045,119

8	CHIP Administrative Costs.....	85601		3,333,752
9	CHIP Services.....	85602		47,422,974
10	Federal Economic Stimulus.....	89100		<u>45,693,209</u>
11	Total.....			\$ 3,276,513,827

**DEPARTMENT OF MILITARY AFFAIRS AND
PUBLIC SAFETY**

346 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2017 Org 0601

1	Personal Services and Employee			
2	Benefits.....	00100	\$	439,636
3	Unclassified.....	09900		250,000
4	Current Expenses.....	13000		24,307,690
5	Repairs and Alterations.....	06400		3,000
6	Other Assets.....	69000		<u>5,000</u>
7	Total.....		\$	25,005,326

*347 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2017 Org 0603

1	Unclassified.....	09900	\$	982,705
2	Mountaineer ChalleNGe Academy.....	70900		3,375,000
3	Martinsburg Starbase.....	74200		410,000
4	Charleston Starbase.....	74300		400,000
5	Military Authority.....	74800		<u>93,102,900</u>
6	Total.....		\$	98,270,605

7 The adjutant general shall have the authority to transfer
8 between appropriations.

*348 - Adjutant General –
West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2017 Org 0603

1	Personal Services and Employee		
2	Benefits..... 00100	\$	1,350,000
3	Current Expenses..... 13000		300,000
4	Equipment..... 07000		350,000
5	Total.....	\$	2,000,000

*349 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2017 Org 0606

1	Personal Services and Employee		
2	Benefits..... 00100	\$	721,650
3	Current Expenses..... 13000		20,429,281
4	Repairs and Alterations..... 06400		5,000
5	Equipment..... 07000		100,000
6	Total.....	\$	21,255,931

350 - Division of Corrections

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2017 Org 0608

1	Unclassified..... 09900	\$	1,100
2	Current Expenses..... 13000		108,900
3	Total.....	\$	110,000

351 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,325,349
3	Current Expenses.	13000	2,125,971
4	Repairs and Alterations.	06400	42,000
5	Equipment.	07000	2,502,285
6	Buildings.	25800	750,500
7	Other Assets.	69000	144,500
8	Land.	73000	<u>500</u>
9	Total.		\$ 7,891,105

352 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2017 Org 0619

1	Current Expenses.	13000	\$ 80,000
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353 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,056,170
3	Unclassified.	09900	25,185
4	Current Expenses.	13000	18,774,373
5	Repairs and Alterations.	06400	<u>1,750</u>
6	Total.		\$ 19,857,478

DEPARTMENT OF REVENUE

354 - Insurance Commissioner

(WV Code Chapter 33)

Fund 8883 FY 2017 Org 0704

1 Current Expenses..... 13000 \$ 3,000,000

DEPARTMENT OF TRANSPORTATION

355 - Division of Motor Vehicles

(WV Code Chapter 17B)

Fund 8787 FY 2017 Org 0802

1	Personal Services and Employee		
2	Benefits..... 00100	\$	501,394
3	Current Expenses..... 13000		15,671,640
4	Repairs and Alterations..... 06400		500
5	Total.....	\$	<u>16,173,534</u>

356 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2017 Org 0805

1	Personal Services and Employee		
2	Benefits..... 00100	\$	702,637
3	Current Expenses..... 13000		9,161,605
4	Repairs and Alterations..... 06400		2,500
5	Equipment..... 07000		5,486,432
6	Buildings..... 25800		205,526
7	Other Assets..... 69000		35,000
8	Total.....	\$	<u>15,593,700</u>

357 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2017 Org 0806

1 Current Expenses..... 13000 \$ 0

DEPARTMENT OF VETERANS' ASSISTANCE

358 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2017 Org 0613

1	Personal Services and Employee		
2	Benefits..... 00100	\$	2,751,100
3	Current Expenses..... 13000		3,925,900
4	Repairs and Alterations..... 06400		50,000
5	Equipment..... 07000		200,000
6	Buildings..... 25800		600,000
7	Other Assets..... 69000		100,000
8	Land..... 73000		<u>100,000</u>
9	Total.....	\$	7,727,000

*359 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2017 Org 0618

1	Personal Services and Employee		
2	Benefits..... 00100	\$	877,915
3	Current Expenses..... 13000		844,092
4	Repairs and Alterations..... 06400		220,000
5	Equipment..... 07000		198,000
6	Buildings..... 25800		296,000
7	Other Assets..... 69000		20,000
8	Land..... 73000		<u>10,000</u>
9	Total.....	\$	2,466,007

BUREAU OF SENIOR SERVICES*360 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2017 Org 0508

1	Personal Services and Employee		
2	Benefits.	00100	\$ 721,393
3	Current Expenses.	13000	13,811,853
4	Repairs and Alterations.	06400	<u>3,000</u>
5	Total.		\$ 14,536,246

MISCELLANEOUS BOARDS AND COMMISSIONS*361 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,286,913
3	Current Expenses.	13000	843,953
4	Repairs and Alterations.	06400	40,000
5	Equipment.	07000	<u>1,862,000</u>
6	Total.		\$ 4,032,866

*362 - Public Service Commission –
Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 596,600

3	Current Expenses.....	13000		124,628
4	Equipment.....	07000		3,000
5	Unclassified.....	09900		<u>4,072</u>
6	Total.....		\$	728,300

363 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2017 Org 0941

1	Personal Services and Employee			
2	Benefits.....	00100	\$	159,235
3	Current Expenses.....	13000		631,365
4	Repairs and Alterations.....	06400		5,000
5	Equipment.....	07000		3,000
6	Other Assets.....	69000		<u>2,000</u>
7	Total.....		\$	800,600
8	Total TITLE II, Section 6 –			
9	Federal Funds.....			<u>\$ 4,498,871,029</u>

1 **Sec. 7. Appropriations from federal block grants.** – The
 2 following items are hereby appropriated from federal block
 3 grants to be available for expenditure during the fiscal year 2017.

*364 - West Virginia Development Office –
 Community Development*

Fund 8746 FY 2017 Org 0307

1	Personal Services and Employee			
2	Benefits.....	00100	\$	648,117
3	Unclassified.....	09900		375,000
4	Current Expenses.....	13000		<u>36,476,883</u>
5	Total.....		\$	37,500,000

*365 - WorkForce West Virginia –
Workforce Investment Act*

Fund 8749 FY 2017 Org 0323

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,862,606
3	Unclassified.	09900	23,023
4	Current Expenses.	13000	28,513,511
5	Repairs and Alterations.	06400	1,600
6	Equipment.	07000	500
7	Buildings.	25800	<u>1,100</u>
8	Total.		\$ 31,402,340

*366 - Department of Commerce
Office of the Secretary –
Office of Economic Opportunity –
Community Services*

Fund 8781 FY 2017 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 362,389
3	Unclassified.	09900	84,000
4	Current Expenses.	13000	12,043,111
5	Repairs and Alterations.	06400	1,500
6	Equipment.	07000	<u>9,000</u>
7	Total.		\$ 12,500,000

*367 - Division of Health –
Maternal and Child Health*

Fund 8750 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,124,294
3	Unclassified.	09900	110,017
4	Current Expenses.	13000	<u>8,767,420</u>
5	Total.		\$ 11,001,731

*368 - Division of Health –
Preventive Health*

Fund 8753 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 162,320
3	Unclassified.	09900	22,457
4	Current Expenses.	13000	1,895,366
5	Equipment.	07000	<u>165,642</u>
6	Total.		\$ 2,245,785

*369 - Division of Health –
Substance Abuse Prevention and Treatment*

Fund 8793 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 822,766
3	Unclassified.	09900	115,924
4	Current Expenses.	13000	<u>10,653,740</u>
5	Total.		\$ 11,592,430

*370 - Division of Health –
Community Mental Health Services*

Fund 8794 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 936,557
3	Unclassified.	09900	33,533
4	Current Expenses.	13000	<u>2,383,307</u>
5	Total.		\$ 3,353,397

*371- Division of Human Services –
Energy Assistance*

Fund 8755 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,514,312
3	Unclassified.	09900	350,000
4	Current Expenses.	13000	<u>33,181,300</u>
5	Total.		\$ 35,045,612

*372 - Division of Human Services –
Social Services*

Fund 8757 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 14,231,684
3	Unclassified.	09900	171,982
4	Current Expenses.	13000	<u>2,870,508</u>
5	Total.		\$ 17,274,174

*373 - Division of Human Services –
Temporary Assistance for Needy Families*

Fund 8816 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 18,297,327
3	Unclassified.	09900	1,250,000
4	Current Expenses.	13000	<u>105,847,136</u>
5	Total.		\$ 125,394,463

*374 - Division of Human Services –
Child Care and Development*

Fund 8817 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,676,841
3	Unclassified.	09900	350,000
4	Current Expenses.	13000	<u>31,999,456</u>
5	Total.		\$ 37,026,297

375 - Division of Justice and Community Services –
Juvenile Accountability Incentive

Fund 8829 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 14,246
3	Current Expenses.	13000	85,729
4	Repairs and Alterations.	06400	<u>25</u>
5	Total.		\$ 100,000
6	Total TITLE II, Section 7 —		
7	Federal Block Grants.		\$ 324,436,229

1 **Sec. 8. Awards for claims against the state.** — There are
2 hereby appropriated for fiscal year 2017, from the fund as
3 designated, in the amounts as specified, general revenue funds
4 in the amount of \$447,065, special revenue funds in the amount
5 of \$89,910, and state road funds in the amount of \$983,484 for
6 payment of claims against the state.

1 **Sec. 9. Appropriations from general revenue surplus**
2 **accrued.** — The following items are hereby appropriated from
3 the state fund, general revenue, and are to be available for
4 expenditure during the fiscal year 2017 out of surplus funds
5 only, accrued from the fiscal year ending June 30, 2016, subject
6 to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the
8 following appropriations be payable only from surplus accrued
9 as of July 31, 2016 from the fiscal year ending June 30, 2016,
10 only after first meeting requirements of W.Va. Code
11 §11B-2-20(b).

12 In the event that surplus revenues available on July 31, 2016,
13 are not sufficient to meet all the appropriations made pursuant to
14 this section, then the appropriations shall be made to the extent

15 that surplus funds are available as of the date mandated and shall
 16 be allocated first to provide the necessary funds to meet the first
 17 appropriation of this section and each subsequent appropriation
 18 in the order listed in this section.

376 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2017 Org 0211

1	Capital Outlay, Repairs and		
2	Equipment – Surplus.....	67700	\$ 5,000,000

*377 - Department of Revenue -
Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2017 Org 0702

1	Tax Technology Upgrade –		
2	Surplus.....	45000	\$ 2,700,000

*378 - Department of Education and the Arts -
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2017 Org 0431

1	WV Early Childhood Planning		
2	Task Force - Surplus.....	14499	\$ <u>109,780</u>
3	Total TITLE II, Section 9 –		
4	Surplus Accrued.		\$ <u><u>7,809,780</u></u>

1 **Sec. 10. Appropriations from lottery net profits surplus**
 2 **accrued.** — The following item is hereby appropriated from the
 3 lottery net profits, and is to be available for expenditure during
 4 the fiscal year 2017 out of surplus funds only, as determined by

5 the director of lottery, accrued from the fiscal year ending June
6 30, 2016, subject to the terms and conditions set forth in this
7 section.

8 It is the intent and mandate of the Legislature that the
9 following appropriation be payable only from surplus accrued
10 from the fiscal year ending June 30, 2016.

11 In the event that surplus revenues available from the fiscal
12 year ending June 30, 2016, are not sufficient to meet the
13 appropriation made pursuant to this section, then the
14 appropriation shall be made to the extent that surplus funds are
15 available.

*379 - Bureau of Senior Services –
Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2017 Org 0508

1	Senior Services Medicaid Transfer –	
2	Lottery Surplus.	68199 \$ <u>15,000,000</u>
3	Total TITLE II, Section 10 –	
4	Surplus Accrued.	\$ <u>15,000,000</u>

1 **Sec. 11. Appropriations from state excess lottery revenue**
2 **surplus accrued.** — The following item is hereby appropriated
3 from the state excess lottery revenue fund, and is to be available
4 for expenditure during the fiscal year 2017 out of surplus funds
5 only, as determined by the director of lottery, accrued from the
6 fiscal year ending June 30, 2016, subject to the terms and
7 conditions set forth in this section.

8 It is the intent and mandate of the Legislature that the
9 following appropriation be payable only from surplus accrued
10 from the fiscal year ending June 30, 2016.

11 In the event that surplus revenues available from the fiscal
 12 year ending June 30, 2016, are not sufficient to meet the
 13 appropriation made pursuant to this section, then the
 14 appropriation shall be made to the extent that surplus funds are
 15 available.

380 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2017 Org 0511

1	Medical Services –		
2	Lottery Surplus.	68100	\$ <u>32,094,436</u>
3	Total TITLE II, Section 11 –		
4	Surplus Accrued.		\$ <u>32,094,436</u>

1 **Sec. 12. Special revenue appropriations.** — There are
 2 hereby appropriated for expenditure during the fiscal year 2017
 3 appropriations made by general law from special revenues which
 4 are not paid into the state fund as general revenue under the
 5 provisions of W.Va. Code §12-2-2: Provided, That none of the
 6 money so appropriated by this section shall be available for
 7 expenditure except in compliance with the provisions of W.Va.
 8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending
 9 unit has filed with the director of the budget and the legislative
 10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues
 12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what
 14 purposes the fund is to be expended.

1 **Sec. 13. State improvement fund appropriations.** —
 2 Bequests or donations of nonpublic funds, received by the
 3 Governor on behalf of the state during the fiscal year 2017, for

4 the purpose of making studies and recommendations relative to
5 improvements of the administration and management of
6 spending units in the executive branch of state government, shall
7 be deposited in the state treasury in a separate account therein
8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited
10 during the fiscal year 2017 to be expended as authorized by the
11 Governor, for such studies and recommendations which may
12 encompass any problems of organization, procedures, systems,
13 functions, powers or duties of a state spending unit in the
14 executive branch, or the betterment of the economic, social,
15 educational, health and general welfare of the state or its
16 citizens.

1 **Sec. 14. Specific funds and collection accounts.** — A fund
2 or collection account which by law is dedicated to a specific use
3 is hereby appropriated in sufficient amount to meet all lawful
4 demands upon the fund or collection account and shall be
5 expended according to the provisions of Article 3, Chapter 12 of
6 the Code.

1 **Sec. 15. Appropriations for refunding erroneous**
2 **payment.** — Money that has been erroneously paid into the state
3 treasury is hereby appropriated out of the fund into which it was
4 paid, for refund to the proper person.

5 When the officer authorized by law to collect money for the
6 state finds that a sum has been erroneously paid, he or she shall
7 issue his or her requisition upon the Auditor for the refunding of
8 the proper amount. The Auditor shall issue his or her warrant to
9 the Treasurer and the Treasurer shall pay the warrant out of the
10 fund into which the amount was originally paid.

1 **Sec. 16. Sinking fund deficiencies.** — There is hereby
2 appropriated to the Governor a sufficient amount to meet any
3 deficiencies that may arise in the mortgage finance bond

4 insurance fund of the West Virginia housing development fund
5 which is under the supervision and control of the municipal bond
6 commission as provided by W.Va. Code §31-18-20b, or in the
7 funds of the municipal bond commission because of the failure
8 of any state agency for either general obligation or revenue
9 bonds or any local taxing district for general obligation bonds to
10 remit funds necessary for the payment of interest and sinking
11 fund requirements. The Governor is authorized to transfer from
12 time to time such amounts to the municipal bond commission as
13 may be necessary for these purposes.

14 The municipal bond commission shall reimburse the state of
15 West Virginia through the Governor from the first remittance
16 collected from the West Virginia housing development fund or
17 from any state agency or local taxing district for which the
18 Governor advanced funds, with interest at the rate carried by the
19 bonds for security or payment of which the advance was made.

1 **Sec. 17. Appropriations for local governments.** — There
2 are hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to pay
4 taxes due counties, districts and municipal corporations and
5 which have been paid into the treasury:

- 6 (a) For redemption of lands;
- 7 (b) By public service corporations;
- 8 (c) For tax forfeitures.

1 **Sec. 18. Total appropriations.** — Where only a total sum
2 is appropriated to a spending unit, the total sum shall include
3 personal services and employee benefits, annual increment,
4 current expenses, repairs and alterations, buildings, equipment,
5 other assets, land, and capital outlay, where not otherwise
6 specifically provided and except as otherwise provided in TITLE
7 I – GENERAL PROVISIONS, Sec. 3.

1 **Sec. 19. General school fund.** — The balance of the
2 proceeds of the general school fund remaining after the payment
3 of the appropriations made by this act is appropriated for
4 expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION.

1 **Sec. 1. Appropriations conditional.** — The expenditure of
2 the appropriations made by this act, except those appropriations
3 made to the legislative and judicial branches of the state
4 government, are conditioned upon the compliance by the
5 spending unit with the requirements of Article 2, Chapter 11B of
6 the Code.

7 Where spending units or parts of spending units have been
8 absorbed by or combined with other spending units, it is the
9 intent of this act that appropriations and reappropriations shall be
10 to the succeeding or later spending unit created, unless otherwise
11 indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is
2 declared unconstitutional by a court of competent jurisdiction, its
3 decision shall not affect any portion of this act which remains,
4 but the remaining portion shall be in full force and effect as if
5 the portion declared unconstitutional had never been a part of the
6 act.”

The Speaker put the question on the adoption of the foregoing amendment, and the same was rejected.

Delegates Walters and Gearheart moved to amend the bill on page fifty-six, following line sixty-eight, by inserting a new paragraph to read as follows:

“The above appropriations may not be expended to pay services, fees, premiums or used to develop or in support of contracts with managed care organizations, unless the contracts with managed care

organizations require a minimum medical loss ratio of 87.5% or greater.”

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (Roll No. 481), and there were--yeas 25, nays 73, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Blackwell, Butler, Byrd, Cadle, Canterbury, Ellington, Flanigan, Fluharty, Folk, Gearheart, Guthrie, Hanshaw, Hornbuckle, Lynch, Manchin, Marcum, Perdue, R. Phillips, Pushkin, Reynolds, Rowe, Skinner, Sponaugle, Summers and Walters.

Absent and Not Voting: Arvon and Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to engrossment and third reading.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 269 — “A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.”

At the request of Delegate Cowles, and by unanimous consent, the bill was taken up for immediate consideration.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 269) to the Committee on was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (Roll No. 482), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Arvon and Deem.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time.

On motion of Delegate E. Nelson, the bill was amended on page one, following the enacting section by striking out the remainder of the bill and inserting in lieu thereof the following:

TITLE I — GENERAL PROVISIONS.

1 **Section 1. General policy.** — The purpose of this bill is to
2 appropriate money necessary for the economical and efficient
3 discharge of the duties and responsibilities of the state and its
4 agencies during the fiscal year 2017.

1 **Sec. 2. Definitions.** — For the purpose of this bill:

2 “Governor” shall mean the Governor of the State of West
3 Virginia.

4 “Code” shall mean the Code of West Virginia, one thousand
5 nine hundred thirty-one, as amended.

6 “Spending unit” shall mean the department, bureau, division,
7 office, board, commission, agency or institution to which an
8 appropriation is made.

9 The “fiscal year 2017” shall mean the period from July 1,
10 2016, through June 30, 2017.

11 “General revenue fund” shall mean the general operating
12 fund of the state and includes all moneys received or collected
13 by the state except as provided in W.Va. Code §12-2-2 or as
14 otherwise provided.

15 “Special revenue funds” shall mean specific revenue sources
16 which by legislative enactments are not required to be accounted
17 for as general revenue, including federal funds.

18 “From collections” shall mean that part of the total
19 appropriation which must be collected by the spending unit to be
20 available for expenditure. If the authorized amount of collections
21 is not collected, the total appropriation for the spending unit
22 shall be reduced automatically by the amount of the deficiency
23 in the collections. If the amount collected exceeds the amount
24 designated “from collections,” the excess shall be set aside in a
25 special surplus fund and may be expended for the purpose of the
26 spending unit as provided by Article 2, Chapter 11B of the Code.

1 **Sec. 3. Classification of appropriations.** — An
2 appropriation for:

3 “Personal services” shall mean salaries, wages and other
4 compensation paid to full-time, part-time and temporary
5 employees of the spending unit but shall not include fees or
6 contractual payments paid to consultants or to independent
7 contractors engaged by the spending unit. “Personal services”
8 shall include “annual increment” for “eligible employees” and
9 shall be disbursed only in accordance with Article 5, Chapter 5
10 of the Code.

11 Unless otherwise specified, appropriations for “personal
12 services” shall include salaries of heads of spending units.

13 “Employee benefits” shall mean social security matching,
14 workers’ compensation, unemployment compensation, pension
15 and retirement contributions, public employees insurance

16 matching, personnel fees or any other benefit normally paid by
17 the employer as a direct cost of employment. Should the
18 appropriation be insufficient to cover such costs, the remainder
19 of such cost shall be paid by each spending unit from its
20 “unclassified” appropriation, or its “current expenses”
21 appropriation or other appropriate appropriation. Each spending
22 unit is hereby authorized and required to make such payments in
23 accordance with the provisions of Article 2, Chapter 11B of the
24 Code.

25 Each spending unit shall be responsible for all contributions,
26 payments or other costs related to coverage and claims of its
27 employees for unemployment compensation and workers
28 compensation. Such expenditures shall be considered an
29 employee benefit.

30 “BRIM Premiums” shall mean the amount charged as
31 consideration for insurance protection and includes the present
32 value of projected losses and administrative expenses. Premiums
33 are assessed for coverages, as defined in the applicable policies,
34 for claims arising from, inter alia, general liability, wrongful
35 acts, property, professional liability and automobile exposures.

36 Should the appropriation for “BRIM Premium” be
37 insufficient to cover such cost, the remainder of such costs shall
38 be paid by each spending unit from its “unclassified”
39 appropriation, its “current expenses” appropriation or any other
40 appropriate appropriation to the Board of Risk and Insurance
41 Management. Each spending unit is hereby authorized and
42 required to make such payments. If there is no appropriation for
43 “BRIM Premium” such costs shall be paid by each spending unit
44 from its “current expenses” appropriation, “unclassified”
45 appropriation or other appropriate appropriation.

46 West Virginia Council for Community and Technical
47 College Education and Higher Education Policy Commission

48 entities operating with special revenue funds and/or federal
49 funds shall pay their proportionate share of the Board of Risk
50 and Insurance Management total insurance premium cost for
51 their respective institutions.

52 “Current expenses” shall mean operating costs other than
53 personal services and shall not include equipment, repairs and
54 alterations, buildings or lands. Each spending unit shall be
55 responsible for and charged monthly for all postage meter
56 service and shall reimburse the appropriate revolving fund
57 monthly for all such amounts. Such expenditures shall be
58 considered a current expense.

59 “Equipment” shall mean equipment items which have an
60 appreciable and calculable period of usefulness in excess of one
61 year.

62 “Repairs and alterations” shall mean routine maintenance
63 and repairs to structures and minor improvements to property
64 which do not increase the capital assets.

65 “Buildings” shall include new construction and major
66 alteration of existing structures and the improvement of lands
67 and shall include shelter, support, storage, protection or the
68 improvement of a natural condition.

69 “Lands” shall mean the purchase of real property or interest
70 in real property.

71 “Capital outlay” shall mean and include buildings, lands or
72 buildings and lands, with such category or item of appropriation
73 to remain in effect as provided by W.Va. Code §12-3-12.

74 From appropriations made to the spending units of state
75 government, upon approval of the Governor there may be
76 transferred to a special account an amount sufficient to match
77 federal funds under any federal act.

78 Appropriations classified in any of the above categories shall
79 be expended only for the purposes as defined above and only for
80 the spending units herein designated: *Provided*, That the
81 secretary of each department shall have the authority to transfer
82 within the department those general revenue funds appropriated
83 to the various agencies of the department: *Provided, however*,
84 That no more than five percent of the general revenue funds
85 appropriated to any one agency or board may be transferred to
86 other agencies or boards within the department: and no funds
87 may be transferred to a “personal services and employee
88 benefits” appropriation unless the source funds are also wholly
89 from a “personal services and employee benefits” line, or unless
90 the source funds are from another appropriation that has
91 exclusively funded employment expenses for at least twelve
92 consecutive months prior to the time of transfer and the
93 position(s) supported by the transferred funds are also
94 permanently transferred to the receiving agency or board within
95 the department: *Provided further*, That the secretary of each
96 department and the director, commissioner, executive secretary,
97 superintendent, chairman or any other agency head not governed
98 by a departmental secretary as established by Chapter 5F of the
99 Code shall have the authority to transfer funds appropriated to
100 “personal services and employee benefits,” “current expenses,”
101 “repairs and alterations,” “equipment,” “other assets,” “land,”
102 and “buildings” to other appropriations within the same account
103 and no funds from other appropriations shall be transferred to the
104 “personal services and employee benefits” or the “unclassified”
105 appropriation: *And provided further*, That no authority exists
106 hereunder to transfer funds into appropriations to which no funds
107 are legislatively appropriated: *And provided further*, That if the
108 Legislature by subsequent enactment consolidates agencies,
109 boards or functions, the secretary or other appropriate agency
110 head may transfer the funds formerly appropriated to such
111 agency, board or function in order to implement such
112 consolidation. No funds may be transferred from a Special

113 Revenue Account, dedicated account, capital expenditure
114 account or any other account or fund specifically exempted by
115 the Legislature from transfer, except that the use of the
116 appropriations from the State Road Fund for the office of the
117 Secretary of the Department of Transportation is not a use other
118 than the purpose for which such funds were dedicated and is
119 permitted.

120 Appropriations otherwise classified shall be expended only
121 where the distribution of expenditures for different purposes
122 cannot well be determined in advance or it is necessary or
123 desirable to permit the spending unit the freedom to spend an
124 appropriation for more than one of the above classifications.

1 **Sec. 4. Method of expenditure.** — Money appropriated by
2 this bill, unless otherwise specifically directed, shall be
3 appropriated and expended according to the provisions of Article
4 3, Chapter 12 of the Code or according to any law detailing a
5 procedure specifically limiting that article.

1 **Sec. 5. Maximum expenditures.** — No authority or
2 requirement of law shall be interpreted as requiring or permitting
1 an expenditure in excess of the appropriations set out in this bill.

TITLE II — APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1 **Section 1. Appropriations from general revenue.** — From
 2 the State Fund, General Revenue, there are hereby appropriated
 3 conditionally upon the fulfillment of the provisions set forth in
 4 Article 2, Chapter 11B the following amounts, as itemized, for
 5 expenditure during the fiscal year 2017.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2017 Org 2100

	Appro- piation	General Revenue Fund
1 Compensation of Members (R). 00300	\$	1,010,000
2 Compensation and Per Diem of		
3 Officers and Employees (R). 00500		3,233,620
4 Employee Benefits (R).. 01000		777,712
5 Current Expenses and Contingent		
6 Fund (R). 02100		276,392
7 Repairs and Alterations (R).. 06400		50,000
8 Computer Supplies (R). 10100		20,000
9 Computer Systems (R).. 10200		60,000
10 Printing Blue Book (R). 10300		125,000
11 Expenses of Members (R). 39900		370,000
12 BRIM Premium (R).. 91300		<u>29,482</u>
13 Total..	\$	<u>5,952,206</u>

14 The appropriations for the Senate for the fiscal year 2016 are
 15 to remain in full force and effect and are hereby reappropriated
 16 to June 30, 2017, with the exception of fund 0165, fiscal year
 17 2016, appropriation 39900 (\$238,088) which shall expire on
 18 June 30, 2016. Any balances so reappropriated may be
 19 transferred and credited to the fiscal year 2016 accounts.

20 Upon the written request of the Clerk of the Senate, the
21 Auditor shall transfer amounts between items of the total
22 appropriation in order to protect or increase the efficiency of the
23 service.

24 The Clerk of the Senate, with the approval of the President,
25 is authorized to draw his or her requisitions upon the Auditor,
26 payable out of the Current Expenses and Contingent Fund of the
27 Senate, for any bills for supplies and services that may have been
28 incurred by the Senate and not included in the appropriation bill,
29 for supplies and services incurred in preparation for the opening,
30 the conduct of the business and after adjournment of any regular
31 or extraordinary session, and for the necessary operation of the
32 Senate offices, the requisitions for which are to be accompanied
33 by bills to be filed with the Auditor.

34 The Clerk of the Senate, with the approval of the President,
35 or the President of the Senate shall have authority to employ
36 such staff personnel during any session of the Legislature as
37 shall be needed in addition to staff personnel authorized by the
38 Senate resolution adopted during any such session. The Clerk of
39 the Senate, with the approval of the President, or the President
40 of the Senate shall have authority to employ such staff personnel
41 between sessions of the Legislature as shall be needed, the
42 compensation of all staff personnel during and between sessions
43 of the Legislature, notwithstanding any such Senate resolution,
44 to be fixed by the President of the Senate. The Clerk is hereby
45 authorized to draw his or her requisitions upon the Auditor for
46 the payment of all such staff personnel for such services, payable
47 out of the appropriation for Compensation and Per Diem of
48 Officers and Employees or Current Expenses and Contingent
49 Fund of the Senate.

50 For duties imposed by law and by the Senate, the Clerk of
51 the Senate shall be paid a monthly salary as provided by the
52 Senate resolution, unless increased between sessions under the

53 authority of the President, payable out of the appropriation for
 54 Compensation and Per Diem of Officers and Employees or
 55 Current Expenses and Contingent Fund of the Senate.

56 The distribution of the blue book shall be by the office of the
 57 Clerk of the Senate and shall include 75 copies for each member
 58 of the Legislature and two copies for each classified and
 59 approved high school and junior high or middle school and one
 60 copy for each elementary school within the state.

61 Included in the above appropriation for Senate (fund 0165,
 62 appropriation 02100), an amount not less than \$5,000 is to be
 63 used for the West Virginia Academy of Family Physicians - Doc
 64 of the Day Program.

2 - House of Delegates

Fund 0170 FY 2017 Org 2200

1	Compensation of Members (R). 00300	\$	3,000,000
2	Compensation and Per Diem of		
3	Officers and Employees (R). 00500		575,000
4	Current Expenses and Contingent		
5	Fund (R). 02100		3,929,031
6	Expenses of Members (R). 39900		1,350,000
7	BRIM Premium (R). 91300		<u>50,000</u>
8	Total.	\$	8,904,031

9 The appropriations for the House of Delegates for the fiscal
 10 year 2016 are to remain in full force and effect and are hereby
 11 reappropriated to June 30, 2017, with the exception of fund
 12 0170, fiscal year 2016, appropriation 00300 (\$175,000), fund
 13 0170, fiscal year 2016, appropriation 00500 (\$71,161), fund
 14 0170, fiscal year 2016, appropriation 59900 (\$110,000) and fund
 15 0170, fiscal year 2015, appropriation 39900 (\$2,000,000) which
 16 shall expire on June 30, 2016. Any balances so reappropriated
 17 may be transferred and credited to the fiscal year 2016 accounts.

18 Upon the written request of the Clerk of the House of
19 Delegates, the Auditor shall transfer amounts between items of
20 the total appropriation in order to protect or increase the
21 efficiency of the service.

22 The Clerk of the House of Delegates, with the approval of
23 the Speaker, is authorized to draw his or her requisitions upon
24 the Auditor, payable out of the Current Expenses and Contingent
25 Fund of the House of Delegates, for any bills for supplies and
26 services that may have been incurred by the House of Delegates
27 and not included in the appropriation bill, for bills for services
28 and supplies incurred in preparation for the opening of the
29 session and after adjournment, and for the necessary operation
30 of the House of Delegates' offices, the requisitions for which are
31 to be accompanied by bills to be filed with the Auditor.

32 The Speaker of the House of Delegates, upon approval of the
33 House committee on rules, shall have authority to employ such
34 staff personnel during and between sessions of the Legislature as
35 shall be needed, in addition to personnel designated in the House
36 resolution, and the compensation of all personnel shall be as
37 fixed in such House resolution for the session, or fixed by the
38 Speaker, with the approval of the House committee on rules,
39 during and between sessions of the Legislature, notwithstanding
40 such House resolution. The Clerk of the House of Delegates is
41 hereby authorized to draw requisitions upon the Auditor for such
42 services, payable out of the appropriation for the Compensation
43 and Per Diem of Officers and Employees or Current Expenses
44 and Contingent Fund of the House of Delegates.

45 For duties imposed by law and by the House of Delegates,
46 including salary allowed by law as keeper of the rolls, the Clerk
47 of the House of Delegates shall be paid a monthly salary as
48 provided in the House resolution, unless increased between
49 sessions under the authority of the Speaker, with the approval of
50 the House committee on rules, and payable out of the

51 appropriation for Compensation and Per Diem of Officers and
52 Employees or Current Expenses and Contingent Fund of the
53 House of Delegates.

54 Included in the above appropriation for House of Delegates
55 (fund 0170, appropriation 02100), an amount not less than
56 \$5,000 is to be used for the West Virginia Academy of Family
57 Physicians - Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2017 Org 2300

1	Joint Committee on Government and		
2	Finance (R).	10400	\$ 6,758,015
3	Legislative Printing (R).	10500	760,000
4	Legislative Rule-Making Review		
5	Committee (R)	10600	147,250
6	Legislative Computer System (R)..	10700	902,500
7	BRIM Premium (R).	91300	<u>27,692</u>
8	Total.		\$ 8,595,457

9 The appropriations for the joint expenses for the fiscal year
10 2016 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2017, with the exception of fund
12 0175, fiscal year 2016, appropriation 10400 (\$343,818), and
13 fund 0175, fiscal year 2009, appropriation 64200 (\$4,000,000)
14 which shall expire on June 30, 2016. Any balances
15 reappropriated may be transferred and credited to the fiscal year
16 2016 accounts.

17 Upon the written request of the Clerk of the Senate, with the
18 approval of the President of the Senate, and the Clerk of the
19 House of Delegates, with the approval of the Speaker of the
20 House of Delegates, and a copy to the Legislative Auditor, the
21 Auditor shall transfer amounts between items of the total

22 appropriation in order to protect or increase the efficiency of the
23 service.

24 The appropriation for the Tax Reduction and Federal
25 Funding Increased Compliance (TRAFFIC) (fund 0175,
26 appropriation 64200) is intended for possible general state tax
27 reductions or the offsetting of any reductions in federal funding
28 for state programs.

JUDICIAL

*4 - Supreme Court –
General Judicial*

Fund 0180 FY 2017 Org 2400

1	Personal Services and Employee		
2	Benefits (R).....	00100	\$ 101,924,358
3	Children’s Protection Act (R). . . .	09000	2,900,000
4	Current Expenses (R).....	13000	32,498,862
5	Repairs and Alterations (R).....	06400	736,450
6	Equipment (R).....	07000	1,800,000
7	Judges’ Retirement System (R)....	11000	900,000
8	Buildings (R).....	25800	100,000
9	Other Assets (R).....	69000	500,000
10	BRIM Premium (R).....	91300	<u>400,000</u>
11	Total.....		\$ 141,759,670

12 The appropriations to the Supreme Court of Appeals for the
13 fiscal years 2015 and 2016 are to remain in full force and effect
14 and are hereby reappropriated to June 30, 2017. Any balances so
15 reappropriated may be transferred and credited to the fiscal year
16 2016 accounts.

17 This fund shall be administered by the Administrative
18 Director of the Supreme Court of Appeals, who shall draw
19 requisitions for warrants in payment in the form of payrolls,

20 making deductions there from as required by law for taxes and
21 other items.

22 The appropriation for the Judges' Retirement System (fund
23 0180, appropriation 11000) is to be transferred to the
24 Consolidated Public Retirement Board, in accordance with the
25 law relating thereto, upon requisition of the Administrative
26 Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,143,970
3	Current Expenses (R).	13000	1,030,192
4	Repairs and Alterations.	06400	2,000
5	National Governors Association. . .	12300	60,700
6	Herbert Henderson Office of		
7	Minority Affairs.	13400	156,726
8	Southern Governors' Association. .	31400	40,000
9	BRIM Premium.	91300	<u>151,851</u>
10	Total.		\$ 4,585,439

11 Any unexpended balances remaining in the appropriations
12 for Unclassified (fund 0101, appropriation 09900), and Current
13 Expenses (fund 0101, appropriation 13000) at the close of the
14 fiscal year 2016 are hereby reappropriated for expenditure
15 during the fiscal year 2017, with the exception of fund 0101,
16 fiscal year 2016, appropriation 13000 (\$115,266) which shall
17 expire on June 30, 2016.

18 Included in the above appropriation to Personal Services and
19 Employee Benefits (fund 0101, appropriation 00100), is
20 \$150,000 for the Salary of the Governor.

21 The above appropriation for Herbert Henderson Office of
22 Minority Affairs (fund 0101, appropriation 13400) shall be
23 transferred to the Minority Affairs Fund (fund 1058).

*6 - Governor's Office –
Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 353,714
3	Current Expenses (R).	13000	214,166
4	Repairs and Alterations.	06400	<u>5,000</u>
5	Total.		\$ 572,880

6 Any unexpended balance remaining in the appropriation for
7 Current Expenses (fund 0102, appropriation 13000) at the close
8 of the fiscal year 2016 is hereby reappropriated for expenditure
9 during the fiscal year 2017.

10 Appropriations are to be used for current general expenses,
11 including compensation of employees, household maintenance,
12 cost of official functions and additional household expenses
13 occasioned by such official functions.

*7 - Governor's Office –
Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2017 Org 0100

1 Any unexpended balances remaining in the appropriations
2 for Business and Economic Development Stimulus – Surplus
3 (fund 0105, appropriation 08400), Civil Contingent Fund – Total
4 (fund 0105, appropriation 11400), 2012 Natural Disasters –

5 Surplus (fund 0105, appropriation 13500), Civil Contingent
 6 Fund – Total – Surplus (fund 0105, appropriation 23800), Civil
 7 Contingent Fund – Surplus (fund 0105, appropriation 26300),
 8 Business and Economic Development Stimulus (fund 0105,
 9 appropriation 58600), Civil Contingent Fund (fund 0105,
 10 appropriation 61400), and Natural Disasters – Surplus (fund
 11 0105, appropriation 76400) at the close of the fiscal year 2016
 12 are hereby reappropriated for expenditure during the fiscal year
 13 2017.

14 From this fund there may be expended, at the discretion of
 15 the Governor, an amount not to exceed \$1,000 as West
 16 Virginia’s contribution to the interstate oil compact commission.

17 The above fund is intended to provide contingency funding
 18 for accidental, unanticipated, emergency or unplanned events
 19 which may occur during the fiscal year and is not to be expended
 20 for the normal day-to-day operations of the Governor’s Office.

*8 - Auditor’s Office –
 General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,836,185
3	Current Expenses (R)..	13000	0
4	BRIM Premium.	91300	<u>10,451</u>
5	Total.. . . .		\$ 2,846,636

6 Any unexpended balance remaining in the appropriation for
 7 Current Expenses (fund 0116, appropriation 13000) at the close
 8 of the fiscal year 2016 is hereby reappropriated for expenditure
 9 during the fiscal year 2017.

10 Included in the above appropriation to Personal Services and
11 Employee Benefits (fund 0116, appropriation 00100), is \$95,000
12 for the Salary of the Auditor.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,707,357
3	Unclassified.	09900	7,000
4	Current Expenses (R).	13000	97,191
5	Abandoned Property Program.	11800	135,000
6	Other Assets.	69000	5,000
7	BRIM Premium.	91300	<u>30,809</u>
8	Total.		\$ 2,982,357

9 Any unexpended balances remaining in the appropriations
10 for Current Expenses (fund 0126, appropriation 13000) and
11 Tuition Trust Fund (fund 0126, appropriation 69200) at the close
12 of the fiscal year 2016 are hereby reappropriated for expenditure
13 during the fiscal year 2017, with the exception of fund 0126,
14 fiscal year 2016, appropriation 13000 (\$11,476) and fund 0126,
15 fiscal year 2016, appropriation 69200 (\$73,207) which shall
16 expire on June 30, 2016.

17 Included in the above appropriation to Personal Services and
18 Employee Benefits (fund 0126, appropriation 00100), is \$95,000
19 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 5,858,787

3	Animal Identification Program.	03900	137,743
4	State Farm Museum.	05500	99,500
5	Current Expenses (R).	13000	171,664
6	Repairs and Alterations.	06400	9,037
7	Gypsy Moth Program (R).	11900	1,008,341
8	Huntington Farmers Market.	12800	42,111
9	Black Fly Control.	13700	511,089
10	Donated Foods Program.	36300	50,000
11	Predator Control (R).	47000	200,000
12	Logan Farmers Market.	50100	47,408
13	Bee Research.	69100	75,222
14	Charleston Farmers Market.	74600	80,986
15	Microbiology Program (R).	78500	111,508
16	Moorefield Agriculture		
17	Center (R).	78600	988,512
18	Chesapeake Bay Watershed.	83000	116,568
19	Livestock Care Standards Board.	84300	10,000
20	BRIM Premium.	91300	120,202
21	Threat Preparedness.	94200	0
22	WV Food Banks.	96900	140,000
23	Senior's Farmers' Market Nutrition		
24	Coupon Program.	97000	<u>62,027</u>
25	Total.		\$ 9,840,705

26 Any unexpended balances remaining in the appropriations
27 for Unclassified – Surplus (fund 0131, appropriation 09700),
28 Gypsy Moth Program (fund 0131, appropriation 11900), Current
29 Expenses (fund 0131, appropriation 13000), Predator Control
30 (fund 0131, appropriation 47000), Capital Outlay, Repairs and
31 Equipment – Surplus (fund 0131, appropriation 67700), Capital
32 Outlay and Maintenance (fund 0131, appropriation 75500),
33 Microbiology Program (fund 0131, appropriation 78500),
34 Moorefield Agriculture Center (fund 0131, appropriation 78600),
35 and Agricultural Disaster and Mitigation Needs – Surplus (fund
36 0131, appropriation 85000) at the close of the fiscal year 2016

37 are hereby reappropriated for expenditure during the fiscal year
 38 2017, with the exception of fund 0131, fiscal year 2016,
 39 appropriation 11900 (\$101,180), fund 0131, fiscal year 2016,
 40 appropriation 13000 (\$93,162), fund 0131, fiscal year 2016,
 41 appropriation 78500 (\$4,604), and fund 0131, fiscal year 2016,
 42 appropriation 78600 (\$43,099) which shall expire on June 30,
 43 2016.

44 Included in the above appropriation to Personal Services and
 45 Employee Benefits (fund 0131, appropriation 00100), is \$95,000
 46 for the Salary of the Commissioner.

47 The above appropriation for Predator Control (fund 0131,
 48 appropriation 47000) is to be made available to the United States
 49 Department of Agriculture, Wildlife Services to administer the
 50 Predator Control Program.

51 A portion of the Current Expenses appropriation may be
 52 transferred to a special revenue fund for the purpose of matching
 53 federal funds for marketing and development activities.

54 From the above appropriation for WV Food Banks (fund
 55 0131, appropriation 96900), \$20,000 is for House of Hope and
 56 the remainder of the appropriation shall be allocated to the
 57 Huntington Food Bank and the Mountaineer Food Bank in
 58 Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 730,202
3	Unclassified (R).	09900	80,015
4	Current Expenses (R).	13000	300,000
5	Repairs and Alterations.	06400	56

6	Soil Conservation Projects (R). 12000		6,861,510
7	BRIM Premium. 91300		<u>26,326</u>
8	Total..	\$	7,998,109

9 Any unexpended balances remaining in the appropriations
 10 for Unclassified (fund 0132, appropriation 09900), Soil
 11 Conservation Projects (fund 0132, appropriation 12000), and
 12 Current Expenses (fund 0132, appropriation 13000) at the close
 13 of the fiscal year 2016 are hereby reappropriated for expenditure
 14 during the fiscal year 2017, with the exception of fund 0132,
 15 fiscal year 2016, appropriation 12000 (\$313,452) which shall
 16 expire on June 30, 2016.

*12 - Department of Agriculture –
 Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits. 00100	\$	624,268
3	Unclassified. 09900		7,182
4	Current Expenses. 13000		<u>96,344</u>
5	Total..	\$	727,794

6 Any part or all of this appropriation may be transferred to a
 7 special revenue fund for the purpose of matching federal funds
 8 for the above-named program.

*13 - Department of Agriculture –
 Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2017 Org 1400

1	Programs and Awards for		
2	4-H Clubs and FFA/FHA. 57700	\$	15,000

3	Commissioner’s Awards and		
4	Programs.	73700	<u>39,250</u>
5	Total.		\$ 54,250

*14 - Department of Agriculture –
West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 97,552
3	Unclassified.	09900	<u>950</u>
4	Total.		\$ 98,502

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits (R).	00100	\$ 2,859,112
3	Unclassified (R).	09900	49,576
4	Current Expenses (R).	13000	592,997
5	Repairs and Alterations.	06400	5,000
6	Equipment.	07000	33,000
7	Criminal Convictions and Habeas		
8	Corpus Appeals (R).	26000	1,058,264
9	Better Government Bureau.	74000	0
10	BRIM Premium.	91300	<u>123,697</u>
11	Total.		\$ 4,721,646

12 Any unexpended balances remaining in the above
 13 appropriations for Personal Services and Employee Benefits
 14 (fund 0150, appropriation 00100), Unclassified (fund 0150,
 15 appropriation 09900), Current Expenses (fund 0150,

16 appropriation 13000), Criminal Convictions and Habeas Corpus
 17 Appeals (fund 0150, appropriation 26000), and Agency Client
 18 Revolving Liquidity Pool (fund 0150, appropriation 36200) at
 19 the close of the fiscal year 2016 are hereby reappropriated for
 20 expenditure during the fiscal year 2017, with the exception of
 21 fund 0150, fiscal year 2016, appropriation 00100 (\$206,569)
 22 which shall expire on June 30, 2016.

23 Included in the above appropriation to Personal Services and
 24 Employee Benefits (fund 0150, appropriation 00100), is \$95,000
 25 for the Salary of the Attorney General.

26 When legal counsel or secretarial help is appointed by the
 27 Attorney General for any state spending unit, this account shall
 28 be reimbursed from such spending units specifically
 29 appropriated account or from accounts appropriated by general
 30 language contained within this bill: Provided, That the spending
 31 unit shall reimburse at a rate and upon terms agreed to by the
 32 state spending unit and the Attorney General: Provided,
 33 however, That if the spending unit and the Attorney General are
 34 unable to agree on the amount and terms of the reimbursement,
 35 the spending unit and the Attorney General shall submit their
 36 proposed reimbursement rates and terms to the Governor for
 37 final determination.

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 118,148
3	Unclassified (R).	09900	0
4	Current Expenses (R).	13000	870,000
5	BRIM Premium.	91300	<u>20,000</u>
6	Total.		\$ 1,008,148

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0155, appropriation 09900), Current
 9 Expenses (fund 0155, appropriation 13000), and Technology
 10 Improvements – Surplus (fund 0155, appropriation 72500) at the
 11 close of the fiscal year 2016 are hereby reappropriated for
 12 expenditure during the fiscal year 2017, with the exception of
 13 fund 0155, fiscal year 2016, appropriation 13000 (\$45,439)
 14 which shall expire on June 30, 2016.

15 Included in the above appropriation to Personal Services and
 16 Employee Benefits (fund 0155, appropriation 00100), is \$95,000
 17 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2017 Org 1601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,477
3	Unclassified.	09900	83
4	Current Expenses.	13000	<u>5,782</u>
5	Total.		\$ 8,342

DEPARTMENT OF ADMINISTRATION

*18 - Department of Administration –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2017 Org 0201

1	Personal Services and Employee		
2	Benefits.	00100	\$ 584,397
3	Unclassified.	09900	9,177
4	Current Expenses.	13000	102,470

5	Repairs and Alterations.	06400	100
6	Equipment.	07000	1,000
7	Financial Advisor (R).	30400	100,546
8	Lease Rental Payments.	51600	15,000,000
9	Design-Build Board.	54000	4,000
10	Other Assets.	69000	100
11	BRIM Premium.	91300	4,000
12	Total.		\$ 15,805,790

13 Any unexpended balance remaining in the appropriation for
 14 Financial Advisor (fund 0186, appropriation 30400) at the close
 15 of the fiscal year 2016 is hereby reappropriated for expenditure
 16 during the fiscal year 2017, with the exception of fund 0186,
 17 fiscal year 2016, appropriation 30400 (\$10,000) which shall
 18 expire on June 30, 2016.

19 The appropriation for Lease Rental Payments (fund 0186,
 20 appropriation 51600) shall be disbursed as provided by W.Va.
 21 Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2017 Org 0205

1 The Division of Highways, Division of Motor Vehicles,
 2 Public Service Commission and other departments, bureaus,
 3 divisions, or commissions operating from special revenue funds
 4 and/or federal funds shall pay their proportionate share of the
 5 retirement costs for their respective divisions. When specific
 6 appropriations are not made, such payments may be made from
 7 the balances in the various special revenue funds in excess of
 8 specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2017 Org 0209

1	Personal Services and Employee		
2	Benefits.	00100	\$ 91,583
3	Unclassified.	09900	2,400
4	Current Expenses.	13000	84,462
5	Repairs and Alterations.	06400	1,500
6	Equipment.	07000	1,000
7	GAAP Project (R).	12500	593,062
8	Other Assets.	69000	2,000
9	BRIM Premium.	91300	<u>4,526</u>
10	Total.		\$ 780,533

11 Any unexpended balance remaining in the appropriation for
 12 GAAP Project (fund 0203, appropriation 12500) at the close of
 13 the fiscal year 2016 is hereby reappropriated for expenditure
 14 during the fiscal year 2017.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2017 Org 0211

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,586,763
3	Current Expenses.	13000	880,865
4	Repairs and Alterations.	06400	500
5	Equipment.	07000	5,000
6	Fire Service Fee.	12600	14,000
7	Buildings (R).	25800	500
8	Preservation and Maintenance of		
9	Statues and Monuments		
10	on Capitol Grounds.	37100	68,000
11	Capital Outlay, Repairs and		
12	Equipment (R).	58900	4,000,000
13	Other Assets.	69000	500

14	Land (R).....	73000		500
15	BRIM Premium.	91300		<u>112,481</u>
16	Total.....		\$	7,669,109

17 Any unexpended balances remaining in the above
 18 appropriations for Buildings (fund 0230, appropriation 25800),
 19 Capital Outlay, Repairs and Equipment (fund 0230,
 20 appropriation 58900), Capital Outlay, Repairs and Equipment –
 21 Surplus (fund 0230, appropriation 67700), and Land (fund 0230,
 22 appropriation 73000) at the close of the fiscal year 2016 are
 23 hereby reappropriated for expenditure during the fiscal year
 24 2017, with the exception of fund 0230, fiscal year 2016,
 25 appropriation 58900 (\$552,068) which shall expire on June 30,
 26 2016.

27 From the above appropriation for Preservation and
 28 Maintenance of Statues and Monuments on Capitol Grounds
 29 (fund 0230, appropriation 37100), the Division shall consult the
 30 Division of Culture and History and Capitol Building
 31 Commission in all aspects of planning, assessment, maintenance
 32 and restoration.

33 The above appropriation for Capital Outlay, Repairs and
 34 Equipment (fund 0230, appropriation 58900) shall be expended
 35 for capital improvements, maintenance, repairs and equipment
 36 for state-owned buildings.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2017 Org 0213

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,006,598
3	Unclassified.	09900		1,444
4	Current Expenses.....	13000		24,070

- 2 To pay expenses for members of the commission on uniform
3 state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2017 Org 0219

1	Personal Services and Employee		
2	Benefits.	00100	\$ 918,852
3	Unclassified.	09900	1,000
4	Current Expenses.	13000	165,806
5	Equipment.	07000	50
6	BRIM Premium.	91300	<u>7,803</u>
7	Total.		\$ 1,093,511

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2017 Org 0220

1	Personal Services and Employee		
2	Benefits.	00100	\$ 569,502
3	Unclassified.	09900	4,500
4	Current Expenses.	13000	123,343
5	Repairs and Alterations.	06400	500
6	Other Assets.	69000	100
7	BRIM Premium.	91300	<u>7,987</u>
8	Total.		\$ 705,932

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2017 Org 0221

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,364,314
3	Unclassified	09900	314,700
4	Current Expenses.	13000	45,840
5	Public Defender Corporations.	35200	19,199,374
6	Appointed Counsel Fees (R).	78800	10,723,115
7	BRIM Premium.	91300	<u>8,884</u>
8	Total.		\$ 31,656,227

9 Any unexpended balance remaining in the above
10 appropriation for Appointed Counsel Fees (fund 0226,
11 appropriation 78800) at the close of the fiscal year 2016 is
12 hereby reappropriated for expenditure during the fiscal year
13 2017.

14 The director shall have the authority to transfer funds from
15 the appropriation to Public Defender Corporations (fund 0226,
16 appropriation 35200) to Appointed Counsel Fees (fund 0226,
17 appropriation 78800).

*28 - Committee for the Purchase of
Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2017 Org 0224

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,187
3	Current Expenses.	13000	<u>868</u>
4	Total.		\$ 4,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2017 Org 0225

1 Public Employees' Insurance
 2 Matching01200. \$ 0

3 The Division of Highways, Division of Motor Vehicles,
 4 Public Service Commission and other departments, bureaus,
 5 divisions, or commissions operating from special revenue funds
 6 and/or federal funds shall pay their proportionate share of the
 7 public employees health insurance cost for their respective
 8 divisions.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2017 Org 0228

1 Forensic Medical
 2 Examinations (R).. 68300 \$ 141,094
 3 Federal Funds/Grant Match (R).. . . 74900 101,037
 4 Total.. . . . \$ 242,131

5 Any unexpended balances remaining in the appropriations
 6 for Forensic Medical Examinations (fund 0557, appropriation
 7 68300) and Federal Funds/Grant Match (fund 0557,
 8 appropriation 74900) at the close of the fiscal year 2016 are
 9 hereby reappropriated for expenditure during the fiscal year
 10 2017.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2017 Org 0233

1 Personal Services and Employee
 2 Benefits. 00100 \$ 670,168
 3 Unclassified. 09900 1,000
 4 Current Expenses. 13000 168,046

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,606,686
3	Unclassified.	09900	28,799
4	Current Expenses.	13000	73,149
5	Repairs and Alterations.	06400	968
6	Mineral Mapping System (R).	20700	1,161,131
7	BRIM Premium.	91300	<u>20,950</u>
8	Total.		\$ 2,891,683

9 Any unexpended balance remaining in the appropriation for
10 Mineral Mapping System (fund 0253, appropriation 20700) at
11 the close of the fiscal year 2016 is hereby reappropriated for
12 expenditure during the fiscal year 2017, with the exception of
13 fund 0253, fiscal year 2016, appropriation 20700 (\$60,767)
14 which shall expire on June 30, 2016.

15 The above Unclassified and Current Expenses appropriations
16 include funding to secure federal and other contracts and may be
17 transferred to a special revolving fund (fund 3105) for the
18 purpose of providing advance funding for such contracts.

34 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,210,888
3	ARC-WV Home of Your Own		
4	Alliance.	04800	32,394
5	Unclassified.	09900	100
6	Current Expenses.	13000	2,038,482
7	Southern WV Career Center.	07100	398,246
8	National Youth Science Camp.	13200	246,500
9	Local Economic Development		
10	Partnerships (R).	13300	1,584,000

11	ARC Assessment.	13600	152,585
12	Mid-Atlantic Aerospace Complex..	23100	143,169
13	Guaranteed Work Force Grant (R).	24200	990,547
14	Robert C. Byrd Institute for		
15	Advanced/Flexible Manufacturing -		
16	Technology Outreach and Programs		
17	for Environmental and		
18	Advanced Technologies.	36700	420,964
19	Chemical Alliance Zone.	39000	0
20	WV High Tech Consortium.	39100	140,950
21	Regional Contracting Assistance		
22	Center.	41800	199,886
23	Highway Authorities.	43100	0
24	International Offices (R).	59300	508,672
25	WV Manufacturing Extension		
26	Partnership.	73100	116,619
27	Polymer Alliance.	75400	0
28	Regional Councils.	78400	331,337
29	Mainstreet Program.	79400	117,618
30	National Institute of Chemical		
31	Studies.	80500	57,095
32	I-79 Development Council.	82400	0
33	Mingo County Post Mine		
34	Land Use Projects.	84100	200,000
35	BRIM Premium.	91300	25,052
36	Hatfield McCoy Recreational		
37	Trail.	96000	102,464
38	Hardwood Alliance Zone.	99200	0
39	Total.		\$ 12,017,568

40 Any unexpended balances remaining in the appropriations
41 for Unclassified – Surplus (fund 0256, appropriation 09700),
42 Partnership Grants (fund 0256, appropriation 13100), Local
43 Economic Development Partnerships (fund 0256, appropriation
44 13300), Guaranteed Work Force Grant (fund 0256, appropriation

45 24200), Industrial Park Assistance (fund 0256, appropriation
 46 48000), Small Business Development (fund 0256, appropriation
 47 70300), Local Economic Development Assistance (fund 0256,
 48 appropriation 81900), and 4-H Camp Improvements (fund 0256,
 49 appropriation 94100) at the close of the fiscal year 2016 are
 50 hereby reappropriated for expenditure during the fiscal year
 51 2017. From the reappropriation for Industrial Park Assistance
 52 (fund 0256, appropriation 48000), \$152,000 shall be awarded to
 53 Huntington Tri-State Airport to fund water infrastructure
 54 improvements.

55 The above appropriation to Local Economic Development
 56 Partnerships (fund 0256, appropriation 13300) shall be used by
 57 the West Virginia Development Office for the award of funding
 58 assistance to county and regional economic development
 59 corporations or authorities participating in the certified
 60 development community program developed under the
 61 provisions of W.Va. Code §5B-2-14. The West Virginia
 62 Development Office shall award the funding assistance through
 63 a matching grant program, based upon a formula whereby
 64 funding assistance may not exceed \$34,000 per county served by
 65 an economic development or redevelopment corporation or
 66 authority.

35 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,100,000
3	Unclassified.	09900	27,904
4	Current Expenses.	13000	569,527
5	Repairs and Alterations.	06400	10,000
6	Equipment.	07000	10,000
7	BRIM Premium.	91300	<u>22,752</u>

8	Total..	\$	2,740,183
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*36 - Division of Labor –
Occupational Safety and Health Fund*

(WV Code Chapter 21)

Fund 0616 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits. 00100	\$	74,883
3	Current Expenses. 13000		79,963
4	Repairs and Alterations. 06400		500
5	Equipment. 07000		500
6	BRIM Premium. 91300		985
7	Total..	\$	156,831

37 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits. 00100	\$	15,898,788
3	Unclassified. 09900		11,220
4	Current Expenses. 13000		57,416
5	Repairs and Alterations. 06400		100
6	Equipment. 07000		100
7	Buildings (R). 25800		100
8	Litter Control Conservation		
9	Officers. 56400		0
10	Upper Mud River Flood Control. . . 65400		160,620
11	Other Assets. 69000		100
12	Land (R). 73000		100
13	Law Enforcement. 80600		2,671,687
14	BRIM Premium. 91300		293,374
15	Total..	\$	19,093,605

16 Any unexpended balances remaining in the appropriations
 17 for Buildings (fund 0265, appropriation 25800), Land (fund
 18 0265, appropriation 73000), and State Park Improvements –
 19 Surplus (fund 0265, appropriation 76300) at the close of the
 20 fiscal year 2016 are hereby reappropriated for expenditure
 21 during the fiscal year 2017, with the exception of fund 0265,
 22 fiscal year 2016, appropriation 25800 (\$300) and fund 0265,
 23 fiscal year 2016, appropriation 73000 (\$300) which shall expire
 24 on June 30, 2016.

25 Any revenue derived from mineral extraction at any state
 26 park shall be deposited in a special revenue account of the
 27 division of natural resources, first for bond debt payment
 28 purposes and with any remainder to be for park operation and
 29 improvement purposes.

38 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 9,640,848
3	Unclassified.	09900	120,000
4	Current Expenses.	13000	1,700,000
5	Coal Dust and Rock Dust Sampling.	27000	477,988
6	BRIM Premium.	91300	<u>68,134</u>
7	Total.		\$ 12,006,970

8 Included in the above appropriation for Current Expenses
 9 (fund 0277, appropriation 13000) is \$500,000 for the Southern
 10 West Virginia Community and Technical College Mine Rescue
 11 and Rapid Response Team.

39 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2017 Org 0319

1	Personal Services and Employee		
2	Benefits.	00100	\$ 227,655
3	Unclassified.	09900	3,624
4	Current Expenses.	13000	<u>132,240</u>
5	Total.		\$ 363,519

40 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2017 Org 0323

1	Personal Services and Employee		
2	Benefits.	00100	\$ 53,059
3	Unclassified.	09900	627
4	Current Expenses.	13000	<u>4,695</u>
5	Total.		\$ 58,381

*41 - Department of Commerce –
Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2017 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 346,942
3	Unclassified.	09900	3,500
4	Current Expenses.	13000	<u>19,560</u>
5	Total.		\$ 370,002

*42 - Department of Commerce –
Office of the Secretary –
Office of Economic Opportunity*Fund 0617 FY 2017 Org 0327

1 Office of Economic Opportunity... 03400 \$ 98,350

43 - Division of Energy

(WV Code Chapter 5H)

Fund 0612 FY 2017 Org 0328

1	Personal Services and Employee		
2	Benefits.	00100	\$ 196,280
3	Unclassified.	09900	15,518
4	Current Expenses.	13000	1,280,000
5	BRIM Premium.	91300	<u>3,297</u>
6	Total.		\$ 1,495,095

7 From the above appropriation for Current Expenses (fund
8 0612, appropriation 13000) \$575,000 is for West Virginia
9 University and \$575,000 is for Southern West Virginia
10 Community and Technical College for the Mine Training and
11 Energy Technologies Academy.

DEPARTMENT OF EDUCATION

*44 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 321,931
3	Current Expenses.	13000	<u>2,118,490</u>
4	Total.		\$ 2,440,421

*45 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,278,989
3	Technology System Specialist.	06200	1,500,00
4	Teachers' Retirement Savings		
5	Realized.	09500	37,656,000
6	Unclassified (R).	09900	300,000
7	Current Expenses (R).	13000	2,579,645
8	Equipment.	07000	5,000
9	Increased Enrollment.	14000	3,430,000
10	Safe Schools.	14300	4,980,178
11	Teacher Mentor (R).	15800	550,000
12	Buildings (R).	25800	1,000
13	Allowance for County Transfers.	26400	282,732
14	Technology Repair and		
15	Modernization.	29800	951,003
16	HVAC Technicians.	35500	495,507
17	Early Retirement Notification		
18	Incentive.	36600	300,000
19	MATH Program.	36800	336,532
20	Assessment Programs.	39600	1,339,588
21	21st Century Fellows.	50700	0
22	English as a Second Language.	52800	96,000
23	Teacher Reimbursement.	57300	297,188
24	Hospitality Training.	60000	267,123
25	Hi-Y Youth in Government.	61600	100,000
26	High Acuity Special Needs (R).	63400	1,500,000
27	Foreign Student Education.	63600	89,347
28	Principals Mentorship.	64900	69,250
29	State Board of Education		
30	Administrative Costs.	68400	366,152
31	Other Assets.	69000	1,000
32	IT Academy (R).	72100	475,000
33	Land (R).	73000	1,000

34	Early Literacy Program.	75600	5,700,000
35	School Based Truancy		
36	Prevention (R).	78101	2,000,000
37	Innovation in Education.	78102	2,496,144
38	Elementary/Middle Alternative		
39	Schools.	83300	450,000
40	21st Century Learners (R).	88600	1,994,866
41	Technology Initiatives.	90100	100,000
42	BRIM Premium.	91300	295,036
43	High Acuity Health Care Needs		
44	Program.	92000	925,000
45	21st Century Assessment and		
46	Professional Development.	93100	3,000,000
47	21st Century Technology Infrastructure		
48	Network Tools and Support.	93300	7,636,586
49	Regional Education Service		
50	Agencies.	97200	3,543,120
51	Educational Program Allowance.	99600	516,250
52	Total.		\$ 90,905,236

53 The above appropriations include funding for the state board
54 of education and their executive office.

55 Any unexpended balances remaining in the appropriations
56 for Unclassified (fund 0313, appropriation 09900), Current
57 Expenses (fund 0313, appropriation 13000), Teacher Mentor
58 (fund 0313, appropriation 15800), National Teacher Certification
59 (fund 0313, appropriation 16100), Buildings (fund 0313,
60 appropriation 25800), High Acuity Special Needs (fund 0313,
61 appropriation 63400), IT Academy (fund 0313, appropriation
62 72100), Land (fund 0313, appropriation 73000), School Based
63 Truancy Prevention (fund 0313, appropriation 78101), and 21st
64 Century Learners (fund 0313, appropriation 88600) at the close
65 of the fiscal year 2016 are hereby reappropriated for expenditure
66 during the fiscal year 2017, with the exception of fund 0313,
67 fiscal year 2016, appropriation 13000 (\$106,923), fund 0313,

68 fiscal year 2016, appropriation 16100 (\$150,000), fund 0313,
69 fiscal year 2016, appropriation 72100 (\$20,000), fund 0313,
70 fiscal year 2016, appropriation 78101 (\$1,400,000), and fund
71 0313, fiscal year 2016, appropriation 88600 (\$68,675) which
72 shall expire on June 30, 2016.

73 The above appropriation for Technology System Specialists
74 (fund 0313, appropriation 06200), shall first be used for the
75 continuance of current pilot projects. The remaining balance, if
76 any, may be used to expand the pilot project for additional
77 counties.

78 The above appropriation for Teachers' Retirement Savings
79 Realized (fund 0313, appropriation 09500) shall be transferred
80 to the Employee Pension and Health Care Benefit Fund (fund
81 2044).

82 The above appropriation for Hospitality Training (fund
83 0313, appropriation 60000), shall be allocated only to entities
84 that have a plan approved for funding by the Department of
85 Education, at the funding level determined by the State
86 Superintendent of Schools. Plans shall be submitted to the State
87 Superintendent of Schools to be considered for funding.

88 From the above appropriation for Educational Program
89 Allowance (fund 0313, appropriation 99600), \$100,000 shall be
90 expended for Webster County Board of Education for Hacker
91 Valley; \$150,000 shall be for the Randolph County Board of
92 Education for Pickens School; \$100,000 shall be for the Preston
93 County Board of Education for the Aurora School; \$100,000
94 shall be for the Fayette County Board of Education for Meadow
95 Bridge; and \$66,250 is for Project Based Learning in STEM
96 fields.

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2017 Org 0402

1	Special Education – Counties. . . .	15900	\$	7,271,757
2	Special Education – Institutions. . .	16000		3,748,794
3	Education of Juveniles Held in			
4	Predispositional			
5	Juvenile Detention Centers. . . .	30200		591,646
6	Education of Institutionalized			
7	Juveniles and Adults (R).	47200		<u>17,474,235</u>
8	Total.		\$	29,086,432

9 Any unexpended balance remaining in the appropriation for
10 Education of Institutionalized Juveniles and Adults (fund 0314,
11 appropriation 47200) at the close of the fiscal year 2016 is
12 hereby reappropriated for expenditure during the fiscal year
13 2017, with the exception of fund 0314, fiscal year 2016,
14 appropriation 47200 (\$173,354) which shall expire on June 30,
15 2016.

16 From the above appropriations, the superintendent shall have
17 authority to expend funds for the costs of special education for
18 those children residing in out-of-state placements.

*47 - State Board of Education –
State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2017 Org 0402

1	Other Current Expenses.	02200	\$	151,528,826
2	Advanced Placement.	05300		543,661
3	Professional Educators.	15100		851,258,737
4	Service Personnel.	15200		290,980,698
5	Fixed Charges.	15300		101,646,383
6	Transportation.	15400		71,088,660

7	Professional Student Support		
8	Services.....	65500	36,952,999
9	Improved Instructional Programs. .	15600	45,571,867
10	21st Century Strategic Technology		
11	Learning Growth.....	93600	21,237,101
12	Basic Foundation Allowances.....		1,570,808,932
13	Less Local Share.....		(469,439,875)
14	Adjustments.....		(2,527,044)
15	Total Basic State Aid.....		1,098,842,013
16	Public Employees' Insurance		
17	Matching.....	01200	241,429,043
18	Teachers' Retirement System.	01900	67,464,000
19	School Building Authority.....	45300	23,421,520
20	Retirement Systems – Unfunded		
21	Liability.....	77500	<u>320,634,000</u>
22	Total.....		\$ 1,749,263,532

*48 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 1,275,473
3	Unclassified.....	09900	268,800
4	Current Expenses.....	13000	882,131
5	Wood Products – Forestry Vocational		
6	Program.....	14600	67,417
7	Albert Yanni Vocational Program..	14700	131,951
8	Vocational Aid.....	14800	22,215,162
9	Adult Basic Education.....	14900	4,523,322
10	Program Modernization.....	30500	884,313
11	High School Equivalency Diploma		
12	Testing (R).....	72600	728,815

13	FFA Grant Awards.....	83900		11,496
14	Pre-Engineering Academy			
15	Program.....	84000		<u>250,000</u>
16	Total.....		\$	31,238,880

17 Any unexpended balances remaining in the appropriations
 18 for GED Testing (fund 0390, appropriation 33900) and High
 19 School Equivalency Diploma Testing (fund 0390, appropriation
 20 72600) at the close of the fiscal year 2016 is hereby
 21 reappropriated for expenditure during the fiscal year 2017, with
 22 the exception of fund 0390, fiscal year 2016, appropriation
 23 72600 (\$240,037) which shall expire on June 30, 2016.

*49 - State Board of Education –
 Division of Education Performance Audits*

(WV Code Chapters 18 and 18A)

Fund 0573 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.....	00100	\$	848,582
3	Unclassified.....	09900		7,000
4	Current Expenses.....	13000		294,316
5	Repairs and Alterations.....	06400		1,000
6	Equipment.....	07000		1,000
7	Other Assets.....	69000		<u>1,000</u>
8	Total.....		\$	1,152,898

*50 - State Board of Education –
 West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2017 Org 0403

1	Personal Services and Employee			
2	Benefits.....	00100	\$	11,606,686

3	Unclassified.	09900		107,329
4	Current Expenses.	13000		1,761,169
5	Repairs and Alterations.	06400		115,000
6	Equipment.	07000		35,000
7	Buildings (R).	25800		50,000
8	Capital Outlay and			
9	Maintenance (R).	75500		62,500
10	BRIM Premium.	91300		<u>102,750</u>
11	Total.		\$	13,840,434

12 Any unexpended balances remaining in the appropriations
 13 for Buildings (fund 0320, appropriation 25800) and Capital
 14 Outlay and Maintenance (fund 0320, appropriation 75500) at the
 15 close of the fiscal year 2016 are hereby reappropriated for
 16 expenditure during the fiscal year 2017.

DEPARTMENT OF EDUCATION AND THE ARTS

*51 - Department of Education and the Arts –
 Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2017 Org 0431

1	Personal Services and Employee			
2	Benefits.	00100	\$	851,753
3	Unclassified.	09900		35,000
4	Current Expenses.	13000		27,818
5	Center for Professional			
6	Development (R).	11500		2,208,508
7	WV Humanities Council.	16800		450,000
8	Benedum Professional Development			
9	Collaborative (R).	42700		505,645
10	Governor’s Honors Academy (R).	47800		797,714
11	Educational Enhancements.	69500		200,000
12	S.T.E.M. Education and Grant			

13	Program (R).....	71900	500,292
14	Energy Express.	86100	375,750
15	BRIM Premium.	91300	4,509
16	Special Olympic Games.....	96600	<u>25,000</u>
17	Total.....		\$ 5,981,989

18 Any unexpended balances remaining in the appropriations
 19 for Center for Professional Development (fund 0294,
 20 appropriation 11500), Benedum Professional Development
 21 Collaborative (fund 0294, appropriation 42700), Governor’s
 22 Honors Academy (fund 0294, appropriation 47800), and
 23 S.T.E.M. Education and Grant Program (fund 0294,
 24 appropriation 71900) at the close of the fiscal year 2016 are
 25 hereby reappropriated for expenditure during the fiscal year
 26 2017, with the exception of fund 0294, fiscal year 2016,
 27 appropriation 11500 (\$92,000) and fund 0294, fiscal year 2016,
 28 appropriation 42700 (\$300,250) which shall expire on June 30,
 29 2016.

30 Included in the above appropriation for Educational
 31 Enhancements (fund 0294, appropriation 69500) is \$100,000 for
 32 Reconnecting McDowell - Save the Children and \$100,000 for
 33 the Clay Center.

52 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,837,234
3	Unclassified (R).....	09900	44,177
4	Current Expenses.....	13000	681,851
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	1
7	Buildings (R).	25800	1

8	Other Assets.....	69000		1
9	Land (R).....	73000		1
10	Culture and History Programming..	73200		236,298
11	Capital Outlay and			
12	Maintenance (R).	75500		20,000
13	Historical Highway Marker			
14	Program.....	84400		0
15	BRIM Premium.	91300		<u>33,677</u>
16	Total.....		\$	4,854,241

17 Any unexpended balances remaining in the appropriations
 18 for Unclassified (fund 0293, appropriation 09900), Buildings
 19 (fund 0293, appropriation 25800), Capital Outlay, Repairs and
 20 Equipment (fund 0293, appropriation 58900), Capital
 21 Improvements – Surplus (fund 0293, appropriation 66100),
 22 Capital Outlay, Repairs and Equipment – Surplus (fund 0293,
 23 appropriation 67700), Land (fund 0293, appropriation 73000),
 24 and Capital Outlay and Maintenance (fund 0293, appropriation
 25 75500) at the close of the fiscal year 2016 are hereby
 26 reappropriated for expenditure during the fiscal year 2017.

27 The Current Expense appropriation includes funding for the
 28 arts funds, department programming funds, grants, fairs and
 29 festivals and Camp Washington Carver and shall be expended
 30 only upon authorization of the division of culture and history and
 31 in accordance with the provisions of Chapter 5A, Article 3, and
 32 Chapter 12 of the Code.

53 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2017 Org 0433

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,318,760
3	Current Expenses.....	13000		161,140

4	Repairs and Alterations.	06400		6,500
5	Services to Blind & Handicapped. .	18100		161,717
6	BRIM Premium.	91300		15,177
7	Total..		\$	1,663,294

54 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2017 Org 0439

1	Personal Services and Employee			
2	Benefits.	00100	\$	4,275,602
3	Current Expenses.	13000		100,000
4	Mountain Stage.	24900		275,000
5	Capital Outlay and Maintenance (R)	75500		10,000
6	BRIM Premium.	91300		41,929
7	Total..		\$	4,702,531

8 Any unexpended balance remaining in the appropriation for
9 Capital Outlay and Maintenance (fund 0300, appropriation
10 75500) at the close of the fiscal year 2016 is hereby
11 reappropriated for expenditure during the fiscal year 2017, with
12 the exception of fund 0300, fiscal year 2016, appropriation
13 75500 (\$40,000) which shall expire on June 30, 2016.

*55 - State Board of Rehabilitation –
Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2017 Org 0932

1	Personal Services and Employee			
2	Benefits.	00100	\$	10,664,313
3	Independent Living Services.	00900		500,000
4	Current Expenses.	13000		545,202
5	Workshop Development	16300		2,116,149

6	Supported Employment Extended		
7	Services.....	20600	100,000
8	Ron Yost Personal Assistance		
9	Fund (R).	40700	388,698
10	Employment Attendant Care		
11	Program	59800	156,065
12	BRIM Premium.....	91300	<u>67,033</u>
13	Total.....		\$ 14,537,460

14 Any unexpended balance remaining in the appropriation for
 15 Ron Yost Personal Assistance Fund (fund 0310, appropriation
 16 40700) at the close of the fiscal year 2016 is hereby
 17 reappropriated for expenditure during the fiscal year 2017.

18 From the above appropriation for Workshop Development
 19 (fund 0310, appropriation 16300), funds shall be used
 20 exclusively with the private nonprofit community rehabilitation
 21 program organizations known as work centers or sheltered
 22 workshops. The appropriation shall also be used to continue the
 23 support of the program, services, and individuals with
 24 disabilities currently in place at those organizations.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

56 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2017 Org 0311

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 72,495
3	Current Expenses.....	13000	30,691
4	Repairs and Alterations.....	06400	100
5	Equipment.....	07000	717
6	Other Assets.....	69000	600
7	BRIM Premium.....	91300	<u>684</u>

8 Total..... \$ 105,287

57 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 3,914,779
3	Water Resources Protection and		
4	Management.....	06800	580,093
5	Current Expenses.....	13000	200,950
6	Repairs and Alterations.....	06400	5,950
7	Equipment.....	07000	6,500
8	Unclassified.....	09900	28,189
9	Dam Safety.....	60700	212,332
10	West Virginia Stream Partners		
11	Program.....	63700	50,000
12	Meth Lab Cleanup.....	65600	205,673
13	Other Assets.....	69000	10,183
14	WV Contributions to River		
15	Commissions.....	77600	148,485
16	Office of Water Resources		
17	Non-Enforcement Activity. . .	85500	<u>926,951</u>
18	Total.....		\$ 6,290,085

19 A portion of the appropriations for Current Expenses (fund
 20 0273, appropriation 13000) and Dam Safety (fund 0273,
 21 appropriation 60700) may be transferred to the special revenue
 22 fund Dam Safety Rehabilitation Revolving Fund (fund 3025) for
 23 the state deficient dams rehabilitation assistance program.

58 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2017 Org 0325

1	Personal Services and Employee		
2	Benefits.	00100	\$ 61,586
3	Current Expenses.	13000	13,746
4	Repairs and Alterations.	06400	50
5	Equipment.	07000	579
6	Other Assets.	69000	200
7	BRIM Premium.	91300	<u>2,013</u>
8	Total.		\$ 78,174

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

*59 - Department of Health and Human Resources –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2017 Org 0501

1	Personal Services and Employee		
2	Benefits.	00100	\$ 376,440
3	Unclassified.	09900	8,074
4	Current Expenses.	13000	48,773
5	Women’s Commission (R).	19100	84,524
6	Commission for the Deaf and		
7	Hard of Hearing.	70400	<u>216,635</u>
8	Total.		\$ 734,446

9 Any unexpended balance remaining in the appropriation for
10 the Women’s Commission (fund 0400, appropriation 19100) at
11 the close of the fiscal year 2016 is hereby reappropriated for
12 expenditure during the fiscal year 2017.

*60 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 12,142,743
3	Chief Medical Examiner.	04500	5,485,477
4	Unclassified.	09900	691,862
5	Current Expenses.	13000	4,640,355
6	State Aid for Local and Basic Public		
7	Health Services.	18400	12,649,545
8	Safe Drinking Water Program (R)..	18700	2,172,181
9	Women, Infants and Children. . . .	21000	38,621
10	Early Intervention.	22300	6,044,884
11	Cancer Registry.	22500	197,207
12	CARDIAC Project.	37500	400,000
13	State EMS Technical Assistance. . .	37900	1,353,656
14	Statewide EMS Program		
15	Support (R).	38300	957,473
16	Black Lung Clinics	46700	170,885
17	Center for End of Life.	54500	400,000
18	Pediatric Dental Services.	55000	51,888
19	Vaccine for Children	55100	334,076
20	Tuberculosis Control	55300	366,879
21	Maternal and Child Health Clinics,		
22	Clinicians Medical		
23	Contracts and Fees (R).	57500	6,200,000
24	Epidemiology Support.	62600	1,503,498
25	Primary Care Support.	62800	4,670,953
26	Sexual Assault Intervention and		
27	Prevention.	72300	150,000
28	Health Right Free Clinics.	72700	2,750,000
29	Capital Outlay and		
30	Maintenance (R).	75500	50,000
31	Healthy Lifestyles.	77800	147,034
32	Maternal Mortality Review.	83400	46,973
33	Osteoporosis and Arthritis		

34	Prevention.	84900	158,530
35	Diabetes Education and Prevention.	87300	97,125
36	Tobacco Education Program (R). . .	90600	2,000,000
37	BRIM Premium.	91300	211,214
38	State Trauma and Emergency		
39	Care System.	91800	<u>1,993,374</u>
40	Total.		\$ 68,076,433

41 Any unexpended balances remaining in the appropriations
 42 for Safe Drinking Water Program (fund 0407, appropriation
 43 18700), Statewide EMS Program Support (fund 0407,
 44 appropriation 38300), Maternal and Child Health Clinics,
 45 Clinicians and Medical Contracts and Fees (fund 0407,
 46 appropriation 57500), Capital Outlay and Maintenance (fund
 47 0407, appropriation 75500), Emergency Response Entities –
 48 Special Projects (fund 0407, appropriation 82200), Assistance to
 49 Primary Health Care Centers Community Health Foundation
 50 (fund 0407, appropriation 84500), and Tobacco Education
 51 Program (fund 0407, appropriation 90600) at the close of the
 52 fiscal year 2016 are hereby reappropriated for expenditure
 53 during the fiscal year 2017.

54 From the above appropriation for Current Expenses (fund
 55 0407, appropriation 13000), an amount not less than \$100,000 is
 56 for the West Virginia Cancer Coalition; \$50,000 shall be
 57 expended for the West Virginia Aids Coalition; \$100,000 is for
 58 Adolescent Immunization Education; \$73,065 is for informal
 59 dispute resolution relating to nursing home administrative
 60 appeals; and \$50,000 is for Hospital Hospitality House of
 61 Huntington.

62 From the above appropriation for Maternal and Child Health
 63 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
 64 appropriation 57500) up to \$400,000 shall be transferred to the
 65 Breast and Cervical Cancer Diagnostic Treatment Fund (fund

66 5197) and \$11,000 is for the Marshall County Health
 67 Department for dental services.

61 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,567,519
3	Current Expenses.	13000	12,463
4	Behavioral Health Program (R).	21900	61,223,691
5	Family Support Act.	22100	251,226
6	Institutional Facilities Operations (R)	33500	102,211,029
7	Substance Abuse Continuum of		
8	Care (R).	35400	5,000,000
9	Capital Outlay and Maintenance (R)	75500	950,000
10	Renaissance Program.	80400	165,996
11	BRIM Premium.	91300	<u>1,088,070</u>
12	Total.		\$ 172,469,994

13 Any unexpended balances remaining in the appropriations
 14 for Behavioral Health Program (fund 0525, appropriation
 15 21900), Institutional Facilities Operations (fund 0525,
 16 appropriation 33500), Substance Abuse Continuum of Care
 17 (fund 0525, appropriation 35400), Capital Outlay (fund 0525,
 18 appropriation 51100), Behavioral Health Program – Surplus
 19 (fund 0525, appropriation 63100), Institutional Facilities
 20 Operations – Surplus (fund 0525, appropriation 63200),
 21 Substance Abuse Continuum of Care – Surplus (fund 0525,
 22 appropriation 72200), and Capital Outlay and Maintenance (fund
 23 0525, appropriation 75500) at the close of the fiscal year 2016
 24 are hereby reappropriated for expenditure during the fiscal year
 25 2017, with the exception of fund 0525, fiscal year 2016,
 26 appropriation 21900 (\$5,000,000) and fund 0525, fiscal year

27 2016, appropriation 33500 (\$5,000,000) which shall expire on
28 June 30, 2016.

29 Included in the above appropriation for Behavioral Health
30 Program (fund 0525, appropriation 21900) is \$100,000 for the
31 Healing Place of Huntington.

32 From the above appropriation for Institutional Facilities
33 Operations (fund 0525, appropriation 33500), together with
34 available funds from the division of health – hospital services
35 revenue account (fund 5156, appropriation 33500), on July 1,
36 2016, the sum of \$160,000 shall be transferred to the department
37 of agriculture – land division – farm operating fund (1412) as
38 advance payment for the purchase of food products; actual
39 payments for such purchases shall not be required until such
40 credits have been completely expended.

41 The above appropriation for Institutional Facilities
42 Operations (fund 0525, appropriation 33500) contains prior year
43 salary increases due to Hartley court order in the amount of
44 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984
45 for Mildred Mitchel-Bateman Hospital.

46 From the above appropriation for Substance Abuse
47 Continuum of Care (fund 0525, appropriation 35400), the
48 funding will be consistent with the goal areas outlined in the
49 Comprehensive Substance Abuse Strategic Action Plan.

50 Additional funds have been appropriated in fund 5156, fiscal
51 year 2017, organization 0506, for the operation of the
52 institutional facilities. The secretary of the department of health
53 and human resources is authorized to utilize up to ten percent of
54 the funds from the Institutional Facilities Operations
55 appropriation to facilitate cost effective and cost saving services
56 at the community level.

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2017 Org 0506

1	West Virginia Drinking Water		
2	Treatment		
3	Revolving Fund – Transfer. . . .	68900	\$ 647,500

4 The above appropriation for Drinking Water Treatment
5 Revolving Fund – Transfer shall be transferred to the West
6 Virginia Drinking Water Treatment Revolving Fund or
7 appropriate bank depository and the Drinking Water Treatment
8 Revolving – Administrative Expense Fund as provided by
9 Chapter 16 of the Code.

63 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2017 Org 0510

1	Personal Services and Employee		
2	Benefits.	00100	\$ 914,175
3	Unclassified.	09900	4,024
4	Current Expenses.	13000	191,766
5	BRIM Premium.	91300	<u>9,311</u>
6	Total.		\$ 1,119,276

64 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 43,255,270
3	Unclassified.	09900	5,688,944

4	Current Expenses.	13000	11,298,895
5	Child Care Development.	14400	11,228,136
6	Medical Services Contracts and		
7	Office of Managed Care.	18300	1,835,469
8	Medical Services.	18900	431,377,216
9	Social Services.	19500	142,485,812
10	Family Preservation Program.	19600	1,565,000
11	Family Resource Networks.	27400	1,762,464
12	Domestic Violence Legal		
13	Services Fund.	38400	400,000
14	James "Tiger" Morton		
15	Catastrophic Illness Fund.	45500	50,000
16	I/DD Waiver.	46600	88,753,483
17	Child Protective Services		
18	Case Workers	46800	22,581,819
19	OSCAR and RAPIDS	51500	6,413,863
20	Title XIX Waiver for Seniors.	53300	13,593,620
21	WV Teaching Hospitals Tertiary/		
22	Safety Net.	54700	6,356,000
23	Child Welfare System	60300	1,259,065
24	In-Home Family Education.	68800	1,000,000
25	WV Works Separate State		
26	Program.	69800	3,250,000
27	Child Support Enforcement.	70500	6,297,412
28	Medicaid Auditing.	70600	607,142
29	Temporary Assistance for		
30	Needy Families/		
31	Maintenance of Effort.	70700	22,969,096
32	Child Care - Maintenance of		
33	Effort Match.	70800	5,693,743
34	Child and Family Services.	73600	2,850,000
35	Grants for Licensed Domestic		
36	Violence Programs and		
37	Statewide Prevention.	75000	2,500,000
38	Capital Outlay and		

39	Maintenance (R).	75500	11,875
40	Community Based Services and		
41	Pilot Programs for Youth. . . .	75900	1,000,000
42	Medical Services Administrative		
43	Costs.	78900	35,630,109
44	Traumatic Brain Injury Waiver. . .	83500	800,000
45	Indigent Burials (R).	85100	2,050,000
46	BRIM Premium.	91300	834,187
47	Rural Hospitals Under 150 Beds. . .	94000	2,596,000
48	Children’s Trust Fund – Transfer . .	95100	<u>220,000</u>
49	Total.		\$ 878,214,620

50 Any unexpended balances remaining in the appropriations
51 for Capital Outlay and Maintenance (fund 0403, appropriation
52 75500) and Indigent Burials (fund 0403, appropriation 85100) at
53 the close of the fiscal year 2016 are hereby reappropriated for
54 expenditure during the fiscal year 2017.

55 Notwithstanding the provisions of Title I, section three of
56 this bill, the secretary of the department of health and human
57 resources shall have the authority to transfer funds within the
58 above appropriations: Provided, That no more than five percent
59 of the funds appropriated to one appropriation may be
60 transferred to other appropriations: Provided, however, That no
61 funds from other appropriations shall be transferred to the
62 personal services and employee benefits appropriation.

63 The secretary shall have authority to expend funds for the
64 educational costs of those children residing in out-of-state
65 placements, excluding the costs of special education programs.

66 Included in the above appropriation for Social Services (fund
67 0403, appropriation 19500) is funding for continuing education
68 requirements relating to the practice of social work.

69 The above appropriation for Domestic Violence Legal
70 Services Fund (fund 0403, appropriation 38400) shall be

71 transferred to the Domestic Violence Legal Services Fund (fund
72 5455).

73 The above appropriation for James “Tiger” Morton
74 Catastrophic Illness Fund (fund 0403, appropriation 45500) shall
75 be transferred to the James “Tiger” Morton Catastrophic Illness
76 Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the
77 Code.

78 The above appropriation for WV Works Separate State
79 Program (fund 0403, appropriation 69800), shall be transferred
80 to the WV Works Separate State College Program Fund (fund
81 5467), and the WV Works Separate State Two-Parent Program
82 Fund (fund 5468) as determined by the secretary of the
83 department of health and human resources.

84 From the above appropriation for Child Support
85 Enforcement (fund 0403, appropriation 70500) an amount not to
86 exceed \$300,000 may be transferred to a local banking
87 depository to be utilized to offset funds determined to be
88 uncollectible.

89 From the above appropriation for the Grants for Licensed
90 Domestic Violence Programs and Statewide Prevention (fund
91 0403, appropriation 75000), 50% of the total shall be divided
92 equally and distributed among the fourteen (14) licensed
93 programs and the West Virginia Coalition Against Domestic
94 Violence (WVCADV). The balance remaining in the
95 appropriation for Grants for Licensed Domestic Violence
96 Programs and Statewide Prevention (fund 0403, appropriation
97 75000), shall be distributed according to the formula established
98 by the Family Protection Services Board.

99 The above appropriation for Children’s Trust Fund –
100 Transfer (fund 0403, appropriation 95100) shall be transferred
101 to the Children’s Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*65 - Department of Military Affairs and Public Safety –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2017 Org 0601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 715,873
3	Unclassified (R).	09900	22,142
4	Current Expenses.	13000	107,158
5	Repairs and Alterations.	06400	7,572
6	Equipment.	07000	3,000
7	Fusion Center (R).	46900	500,000
8	Other Assets.	69000	3,000
9	Directed Transfer.	70000	32,000
10	BRIM Premium.	91300	9,404
11	WV Fire and EMS Survivor		
12	Benefit (R).	93900	250,000
13	Homeland State Security		
14	Administrative Agency (R). . . .	95300	<u>267,925</u>
15	Total.		\$ 1,918,074

16 Any unexpended balances remaining in the appropriations
 17 for Unclassified (fund 0430, appropriation 09900), Fusion
 18 Center (fund 0430, appropriation 46900), Substance Abuse
 19 Program – Surplus (fund 0430, appropriation 69600), Justice
 20 Reinvestment Training – Surplus (fund 0430, appropriation
 21 69900), WV Fire and EMS Survivor Benefit (fund 0430,
 22 appropriation 93900), and Homeland State Security
 23 Administrative Agency (fund 0430, appropriation 95300) at the
 24 close of the fiscal year 2016 are hereby reappropriated for
 25 expenditure during the fiscal year 2017, with the exception of
 26 fund 0430, fiscal year 2016, appropriation 46900 (\$7,122), fund

27 0430, fiscal year 2016, appropriation 93900 (\$200,000), and
28 fund 0430, fiscal year 2016, appropriation 95300 (\$7,123) which
29 shall expire on June 30, 2016.

30 The above appropriation for Directed Transfer (fund 0430,
31 appropriation 70000) shall be transferred to the
32 Law-Enforcement, Safety and Emergency Worker Funeral
33 Expense Payment Fund (fund 6003).

*66 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2017 Org 0603

1	Unclassified (R).....	09900	\$	14,410,434
2	College Education Fund.....	23200		0
3	Mountaineer Challenge Academy..	70900		0
4	Armory Board Transfer.....	70015		0
5	Military Authority.....	74800		0
6	Total.....		\$	14,410,434

7 Any unexpended balance remaining in the appropriation for
8 Unclassified (fund 0433, appropriation 09900) at the close of the
9 fiscal year 2016 is hereby reappropriated for expenditure during
10 the fiscal year 2017, with the exception of fund 0433, fiscal year
11 2016, appropriation 09900 (\$599,750) which shall expire on
12 June 30, 2016.

13 From the above appropriations an amount approved by the
14 adjutant general and the secretary of military affairs and public
15 safety may be transferred to the State Armory Board for
16 operation and maintenance of National Guard Armories.

17 The adjutant general shall have the authority to transfer
18 between appropriations.

19 From the above appropriation and other county, state and
 20 federal funding, the Adjutant General shall provide an amount
 21 not less than \$4,500,000 to the Mountaineer Challenge
 22 Academy to meet anticipated program demand.

*67 - Adjutant General –
 Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2017 Org 0603

1	Personal Services and Employee		
2	Benefits.	00100	\$ 100,000
3	Current Expenses.	13000	<u>64,280</u>
4	Total.		\$ 164,280

68 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2017 Org 0605

1	Personal Services and Employee		
2	Benefits.	00100	\$ 385,459
3	Current Expenses.	13000	218,694
4	Salaries of Members of West Virginia		
5	Parole Board.	22700	597,865
6	BRIM Premium.	91300	<u>4,712</u>
7	Total.		\$ 1,206,730

8 The above appropriation for Salaries of Members of West
 9 Virginia Parole Board (fund 0440, appropriation 22700) includes
 10 funding for salary, annual increment (as provided for in W.Va.
 11 Code §5-5-1), and related employee benefits of board members.

*69 - Division of Homeland Security and
 Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2017 Org 0606

1	Personal Services and Employee		
2	Benefits.	00100	\$ 548,175
3	Unclassified.	09900	28,157
4	Current Expenses.	13000	114,611
5	Repairs and Alterations.	06400	1,000
6	Radiological Emergency		
7	Preparedness.	55400	12,452
8	Federal Funds/Grant Match (R).	74900	664,247
9	Mine and Industrial Accident Rapid		
10	Response Call Center.	78100	452,189
11	Early Warning Flood System (R).	87700	474,006
12	BRIM Premium.	91300	18,811
13	WVU Charleston Poison Control		
14	Hotline.	94400	<u>727,492</u>
15	Total.		\$ 3,036,140

16 Any unexpended balances remaining in the appropriations
17 for Federal Funds/Grant Match (fund 0443, appropriation
18 74900), Early Warning Flood System (fund 0443, appropriation
19 87700), and Disaster Mitigation (fund 0443, appropriation
20 95200) at the close of the fiscal year 2016 are hereby
21 reappropriated for expenditure during the fiscal year 2017, with
22 the exception of fund 0443, fiscal year 2016, appropriation
23 87700 (\$36,879) which shall expire on June 30, 2016.

*70 - Division of Corrections –
Central Office*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2017 Org 0608

1 Personal Services and Employee

2	Benefits.	00100	\$	610,909
3	Current Expenses.	13000		<u>1,800</u>
4	Total.		\$	612,709

*71 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2017 Org 0608

1	Employee Benefits.	01000	\$	1,258,136
2	Children's Protection Act (R).	09000		938,437
3	Unclassified (R)	09900		1,623,738
4	Current Expenses (R).	13000		23,132,313
5	Facilities Planning and			
6	Administration (R).	38600		1,166,627
7	Charleston Correctional Center.	45600		3,126,532
8	Beckley Correctional Center.	49000		1,815,364
9	Huntington Work Release Center.	49500		1,070,058
10	Anthony Correctional Center	50400		5,040,533
11	Huttonsville Correctional Center	51400		20,998,029
12	Northern Correctional Center	53400		6,938,571
13	Inmate Medical Expenses (R).	53500		21,226,064
14	Pruntytown Correctional Center	54300		7,060,326
15	Corrections Academy.	56900		1,441,819
16	Information Technology Services.	59901		3,341,064
17	Martinsburg Correctional Center.	66300		3,538,534
18	Parole Services.	68600		5,131,198
19	Special Services	68700		6,122,439
20	Investigative Services.	71600		3,151,604
21	Capital Outlay and			
22	Maintenance (R).	75500		2,000,000
23	Salem Correctional Center.	77400		9,943,952
24	McDowell County Correctional			
25	Center.	79000		1,949,983

26	Stevens Correctional Center	79100	6,474,500
27	Parkersburg Correctional Center. . .	82800	2,442,670
28	St. Mary's Correctional Center . . .	88100	12,636,324
29	Denmar Correctional Center.	88200	4,414,286
30	Ohio County Correctional Center. .	88300	1,738,335
31	Mt. Olive Correctional Complex. . .	88800	19,684,203
32	Lakin Correctional Center.	89600	8,911,795
33	BRIM Premium.	91300	<u>829,190</u>
34	Total.		\$ 189,146,624

35 Any unexpended balances remaining in the appropriations
 36 for Children's Protection Act (fund 0450, appropriation 09000),
 37 Unclassified – Surplus (fund 0450, appropriation 09700),
 38 Current Expenses (fund 0450, appropriation 13000), Facilities
 39 Planning and Administration (fund 0450, appropriation 38600),
 40 Inmate Medical Expenses (fund 0450, appropriation 53500),
 41 Capital Improvements – Surplus (fund 0450, appropriation
 42 66100), Capital Outlay, Repairs and Equipment – Surplus (fund
 43 0450, appropriation 67700), Capital Outlay and Maintenance
 44 (fund 0450, appropriation 75500), Security System
 45 Improvements – Surplus (fund 0450, appropriation 75501), and
 46 Operating Expenses – Surplus (fund 0450, appropriation 77900)
 47 at the close of the fiscal year 2016 are hereby reappropriated for
 48 expenditure during the fiscal year 2017, with the exception of
 49 fund 0450, fiscal year 2016, appropriation 13000 (\$8,500,000)
 50 which shall expire on June 30, 2016.

51 The commissioner of corrections shall have the authority to
 52 transfer between appropriations to the individual correctional
 53 units above and may transfer funds from the individual
 54 correctional units to Current Expenses (fund 0450, appropriation
 55 13000) or Inmate Medical Expenses (fund 0450, appropriation
 56 53500).

57 From the above appropriation to Unclassified (fund 0450,
 58 appropriation 09900), on July 1, 2016, the sum of \$300,000 shall

59 be transferred to the department of agriculture – land division –
 60 farm operating fund (1412) as advance payment for the purchase
 61 of food products; actual payments for such purchases shall not
 62 be required until such credits have been completely expended.

63 From the above appropriation to Current Expenses (fund
 64 0450, appropriation 13000) payment shall be made to house
 65 Division of Corrections inmates in federal, county, and/or
 66 regional jails.

67 Any realized savings from the Energy Savings Contract for
 68 Mt. Olive Correctional Complex, Huttonsville Correction
 69 Center, Pruntytown Correctional Center, or Denmark Correctional
 70 Center may be transferred from the listed individual correctional
 71 units to Facilities Planning and Administration (fund 0450,
 72 appropriation 38600).

72 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 57,760,209
3	Children’s Protection Act.	09000	954,509
4	Current Expenses.	13000	10,358,032
5	Repairs and Alterations.	06400	450,523
6	Vehicle Purchase.	45100	0
7	Barracks Lease Payments.	55600	246,478
8	Communications and Other		
9	Equipment (R).	55800	1,070,968
10	Trooper Retirement Fund.	60500	4,035,203
11	Handgun Administration Expense.	74700	82,692
12	Capital Outlay and Maintenance (R).	75500	250,000
13	Retirement Systems –		
14	Unfunded Liability.	77500	16,875,000

15	Automated Fingerprint Identification		
16	System.....	89800	725,771
17	BRIM Premium.....	91300	<u>4,946,608</u>
18	Total.....		\$ 97,755,993

19 Any unexpended balances remaining in the appropriations
20 for Communications and Other Equipment (fund 0453,
21 appropriation 55800), and Capital Outlay and Maintenance (fund
22 0453, appropriation 75500) at the close of the fiscal year 2016
23 are hereby reappropriated for expenditure during the fiscal year
24 2017, with the exception of fund 0453, fiscal year 2016,
25 appropriation 55800 (\$1,162,002) which shall expire on June 30,
26 2016.

27 From the above appropriation for Personal Services and
28 Employee Benefits (fund 0453, appropriation 00100), an amount
29 not less than \$25,000 shall be expended to offset the costs
30 associated with providing police services for the West Virginia
31 State Fair.

73 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2017 Org 0619

1	Current Expenses.....	13000	\$ 50,000
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74 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 534,684
3	Current Expenses.....	13000	132,696
4	Repairs and Alterations.....	06400	1,804

5	Child Advocacy Centers (R).	45800	1,561,959
6	Community Corrections (R).	56100	5,782,896
7	Statistical Analysis Program.	59700	46,724
8	Sexual Assault Forensic		
9	Examination Commission.	71400	76,704
10	Qualitative Analysis and		
11	Training for Youth		
12	Services (R).	76200	362,497
13	Law Enforcement Professional		
14	Standards.	83800	155,464
15	BRIM Premium.	91300	<u>1,421</u>
16	Total.		\$ 8,656,849

17 Any unexpended balances remaining in the appropriations
18 for Child Advocacy Centers (fund 0546, appropriation 45800),
19 Community Corrections (fund 0546, appropriation 56100), and
20 Qualitative Analysis and Training for Youth Services (fund
21 0546, appropriation 76200) at the close of the fiscal year 2016
22 are hereby reappropriated for expenditure during the fiscal year
23 2017, with the exception of fund 0546, fiscal year 2016,
24 appropriation 45800 (\$72,000), fund 0546, fiscal year 2016,
25 appropriation 56100 (\$178,000), and fund 0546, fiscal year
26 2016, appropriation 76200 (\$200,000) which shall expire on
27 June 30, 2016.

28 From the above appropriation for Child Advocacy Centers
29 (fund 0546, appropriation 45800), the division may retain an
30 amount not to exceed four percent of the appropriation for
31 administrative purposes.

75 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2017 Org 0621

1	Statewide Reporting Centers.	26200	\$ 6,309,696
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2	Robert L. Shell Juvenile Center.	26700	1,969,807
3	Resident Medical Expenses.	53501	4,390,551
4	Central Office	70100	2,324,562
5	Capital Outlay and		
6	Maintenance (R).	75500	250,000
7	Gene Spadaro Juvenile Center	79300	2,141,284
8	BRIM Premium.	91300	96,187
9	Kenneth Honey Rubenstein		
10	Juvenile Center (R)	98000	4,952,035
11	Vicki Douglas Juvenile Center.	98100	1,882,647
12	Northern Regional Juvenile Center.	98200	2,876,302
13	Lorrie Yeager Jr. Juvenile Center.	98300	1,922,009
14	Sam Perdue Juvenile Center	98400	2,015,925
15	Tiger Morton Center	98500	2,127,696
16	Donald R. Kuhn Juvenile Center	98600	4,084,883
17	J.M. "Chick" Buckbee Juvenile		
18	Center	98700	<u>2,030,199</u>
19	Total.		\$ 39,373,783

20 Any unexpended balances remaining in the appropriations
21 for Capital Outlay and Maintenance (fund 0570, appropriation
22 75500) and Kenneth Honey Rubenstein Juvenile Center (fund
23 0570, appropriation 98000) at the close of the fiscal year 2016
24 are hereby reappropriated for expenditure during the fiscal year
25 2017.

26 From the above appropriations, on July 1, 2016, the sum of
27 \$50,000 shall be transferred to the department of agriculture –
28 land division – farm operating fund (1412) as advance payment
29 for the purchase of food products; actual payments for such
30 purchases shall not be required until such credits have been
31 completely expended.

32 The director of juvenile services shall have the authority to
33 transfer between appropriations to the individual juvenile centers
34 above and may transfer funds from the individual juvenile

35 centers to Resident Medical Expenses (fund 0570, appropriation
36 53501).

76 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2017 Org 0622

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,036,201
3	Unclassified (R).	09900	21,991
4	Current Expenses.	13000	109,232
5	Repairs and Alterations.	06400	8,500
6	Equipment (R).	07000	64,171
7	BRIM Premium.	91300	<u>9,969</u>
8	Total.		\$ 2,250,064

9 Any unexpended balances remaining in the appropriations
10 for Equipment (fund 0585, appropriation 07000), and
11 Unclassified (fund 0585, appropriation 09900) at the close of the
12 fiscal year 2016 are hereby reappropriated for expenditure
13 during the fiscal year 2017.

DEPARTMENT OF REVENUE

77 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2017 Org 0701

1	Personal Services and Employee		
2	Benefits.	00100	\$ 502,741
3	Unclassified.	09900	6,121
4	Current Expenses.	13000	92,730
5	Repairs and Alterations.	06400	1,262
6	Equipment.	07000	8,000

7	Other Assets.....	69000		<u>500</u>
8	Total.....		\$	611,354

9 Any unexpended balance remaining in the appropriation for
 10 Unclassified – Total (fund 0465, appropriation 09600) at the
 11 close of the fiscal year 2016 is hereby reappropriated for
 12 expenditure during the fiscal year 2017.

78 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2017 Org 0702

1	Personal Services and Employee			
2	Benefits (R).....	00100	\$	16,380,222
3	Unclassified (R).....	09900		224,578
4	Current Expenses (R).....	13000		4,249,690
5	Repairs and Alterations.....	06400		10,000
6	Equipment.....	07000		50,000
7	Multi State Tax Commission.....	65300		77,958
8	Other Assets.....	69000		10,000
9	BRIM Premium.....	91300		13,000
10	Total.....		\$	21,015,448

11 Any unexpended balances remaining in the appropriations
 12 for Personal Services and Employee Benefits (fund 0470,
 13 appropriation 00100), Unclassified (fund 0470, appropriation
 14 09900), Current Expenses (fund 0470, appropriation 13000), and
 15 GIS Development Project (fund 0470, appropriation 56200) at
 16 the close of the fiscal year 2016 are hereby reappropriated for
 17 expenditure during the fiscal year 2017, with the exception of
 18 fund 0470, fiscal year 2016, appropriation 00100 (\$400,000) and
 19 fund 0470, fiscal year 2016, appropriation 13000 (\$535,745)
 20 which shall expire on June 30, 2016.

(WV Code Chapter 11B)

Fund 0595 FY 2017 Org 0703

1	Personal Services and Employee		
2	Benefits.	00100	\$ 648,378
3	Unclassified (R).	09900	5,000
4	Current Expenses.	13000	3,399
5	BRIM Premium.	91300	<u>3,348</u>
6	Total.		\$ 656,754

7 Any unexpended balance remaining in the appropriation for
8 Unclassified (fund 0595, appropriation 09900) at the close of the
9 fiscal year 2016 is hereby reappropriated for expenditure during
10 the fiscal year 2017.

80 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2017 Org 0709

1	Personal Services and Employee		
2	Benefits.	00100	\$ 428,077
3	Current Expenses (R).	13000	103,233
4	Unclassified.	09900	5,380
5	BRIM Premium.	91300	<u>2,618</u>
6	Total.		\$ 539,308

7 Any unexpended balance remaining in the appropriation for
8 Current Expenses (fund 0593, appropriation 13000) at the close
9 of the fiscal year 2016 is hereby reappropriated for expenditure
10 during the fiscal year 2017.

*81 - Division of Professional and Occupational Licenses –
State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2017 Org 0933

1	Personal Services and Employee		
2	Benefits.	00100	\$ 9,177
3	Current Expenses.	13000	<u>28,385</u>
4	Total.		\$ 37,562

DEPARTMENT OF TRANSPORTATION

82 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2017 Org 0804

1	Personal Services and Employee		
2	Benefits.	00100	\$ 316,636
3	Current Expenses.	13000	305,469
4	Other Assets (R)..	69000	1,310,760
5	BRIM Premium.	91300	<u>173,966</u>
6	Total.		\$ 2,106,831

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0506, appropriation 09900) and Other
 9 Assets (fund 0506, appropriation 69000) at the close of the fiscal
 10 year 2016 are hereby reappropriated for expenditure during the
 11 fiscal year 2017, with the exception of fund 0506, fiscal year
 12 2016, appropriation 69000 (\$25,000) which shall expire on June
 13 30, 2016.

83 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2017 Org 0805

1	Equipment (R).	07000	\$ 532,339
2	Current Expenses (R)..	13000	1,804,949

3	Buildings (R).....	25800		5,281
4	Other Assets (R).....	69000		<u>5,000</u>
5	Total.....		\$	2,347,569

6 Any unexpended balances remaining in the appropriations
 7 for Equipment (fund 0510, appropriation 07000), Current
 8 Expenses (fund 0510, appropriation 13000), Buildings (fund
 9 0510, appropriation 25800) and Other Assets (fund 0510,
 10 appropriation 69000) at the close of the fiscal year 2016 are
 11 hereby reappropriated for expenditure during the fiscal year
 12 2017, with the exception of fund 0510, fiscal year 2016,
 13 appropriation 07000 (\$58,429), fund 0510, fiscal year 2016,
 14 appropriation 25800 (\$20,281), and fund 0510, fiscal year 2016,
 15 appropriation 69000 (\$50,000) which shall expire on June 30,
 16 2016.

84 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2017 Org 0806

1	Personal Services and Employee			
2	Benefits.....	00100	\$	219,831
3	Current Expenses.....	13000		50,224
4	Repairs and Alterations.....	06400		500
5	BRIM Premium.....	91300		<u>2,500</u>
6	Total.....		\$	273,055

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0581, appropriation 09900) at the close of the
 9 fiscal year 2016 is hereby reappropriated for expenditure during
 10 the fiscal year 2017.

85 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2017 Org 0807

1	Personal Services and Employee		
2	Benefits.	00100	\$ 213,368
3	Current Expenses (R)..	13000	534,535
4	Repairs and Alterations.	06400	100
5	Civil Air Patrol..	23400	145,095
6	BRIM Premium.	91300	<u>3,045</u>
7	Total..		\$ 896,143

8 Any unexpended balance remaining in the appropriations for
9 Unclassified (fund 0582, appropriation 09900) and Current
10 Expenses (fund 0582, appropriation 13000) at the close of the
11 fiscal year 2016 are hereby reappropriated for expenditure
12 during the fiscal year 2017, with the exception of fund 0582,
13 fiscal year 2016, appropriation 13000 (\$73,169) which shall
14 expire on June 30, 2016.

15 From the above appropriation for Current Expenses (fund
16 0582, appropriation 13000), the sum of \$90,000 shall be
17 distributed equally to each of the twelve local Civil Air Patrol
18 Squadrons.

DEPARTMENT OF VETERANS' ASSISTANCE

86 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2017 Org 0613

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,820,635
3	Unclassified.	09900	20,000
4	Current Expenses.	13000	323,587
5	Repairs and Alterations.	06400	5,000
6	Veterans' Field Offices.	22800	248,345
7	Veterans' Nursing Home (R)..	28600	5,577,251

8	Veterans' Toll Free Assistance		
9	Line.	32800	2,015
10	Veterans' Reeducation		
11	Assistance (R).	32900	29,502
12	Veterans' Grant Program (R).. . . .	34200	100,000
13	Veterans' Grave Markers.	47300	10,254
14	Veterans' Transportation.	48500	625,000
15	Veterans Outreach Programs.	61700	160,743
16	Memorial Day Patriotic Exercise. . .	69700	20,000
17	Veterans Cemetery.	80800	374,760
18	BRIM Premium.	91300	<u>23,860</u>
19	Total.		\$ 9,340,952

20 Any unexpended balances remaining in the appropriations
 21 for Veterans' Nursing Home (fund 0456, appropriation 28600),
 22 Veterans' Reeducation Assistance (fund 0456, appropriation
 23 32900), Veterans' Grant Program (fund 0456, appropriation
 24 34200), Veterans' Bonus – Surplus (fund 0456, appropriation
 25 34400), Veterans' Bonus (fund 0456, appropriation 48300), and
 26 Educational Opportunities for Children of Deceased Veterans
 27 (fund 0456, appropriation 85400) at the close of the fiscal year
 28 2016 are hereby reappropriated for expenditure during the fiscal
 29 year 2017, with the exception of fund 0456, fiscal year 2016,
 30 appropriation 28600 (\$342,977) which shall expire on June 30,
 31 2016.

*87 - Department of Veterans' Assistance –
 Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2017 Org 0618

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,102,223
3	Current Expenses.	13000	67,980
4	Total.		\$ 1,170,203

BUREAU OF SENIOR SERVICES

88 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2017 Org 0508

1	Transfer to Division of Human Services for		
2	Health Care and Title XIX		
3	Waiver for Senior Citizens.	53900	\$ 14,113,504

4 The above appropriation for Transfer to Division of Human
5 Services for Health Care and Title XIX Waiver for Senior
6 Citizens (fund 0420, appropriation 53900) along with the federal
7 moneys generated thereby shall be used for reimbursement for
8 services provided under the program.

9 The above appropriation is in addition to funding provided
10 in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY
AND TECHNICAL COLLEGE EDUCATION**

89 - West Virginia Council for

*Community and Technical College Education –
Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2017 Org 0420

1	West Virginia Council for		
2	Community and Technical		
3	Education (R).	39200	\$ 756,232
4	Transit Training Partnership.	78300	30,217
5	Community College Workforce		
6	Development (R).	87800	806,048

7	College Transition Program.....	88700	292,718
8	West Virginia Advance Workforce		
9	Development (R).....	89300	3,269,964
10	Technical Program		
11	Development (R).....	89400	<u>1,895,214</u>
12	Total.....		\$ 7,050,393

13 Any unexpended balances remaining in the appropriations
 14 for West Virginia Council for Community and Technical
 15 Education (fund 0596, appropriation 39200), Capital
 16 Improvements – Surplus (fund 0596, appropriation 66100),
 17 Community College Workforce Development (fund 0596,
 18 appropriation 87800), West Virginia Advance Workforce
 19 Development (fund 0596, appropriation 89300), and Technical
 20 Program Development (fund 0596, appropriation 89400) at the
 21 close of the fiscal year 2016 are hereby reappropriated for
 22 expenditure during the fiscal year 2017, with the exception of
 23 fund 0596, fiscal year 2016, appropriation 39200 (\$10,030), fund
 24 0596, fiscal year 2016, appropriation 89300 (\$164,577), and
 25 fund 0596, fiscal year 2016, appropriation 89400 (\$89,384)
 26 which shall expire on June 30, 2016.

27 From the above appropriation for the Community College
 28 Workforce Development (fund 0596, appropriation 87800),
 29 \$200,000 shall be expended on the Mine Training Program in
 30 Southern West Virginia.

31 Included in the above appropriation for West Virginia
 32 Advance Workforce Development (fund 0596, appropriation
 33 89300) is \$200,000 to be used exclusively for advanced
 34 manufacturing and energy industry specific training programs.

90 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2017 Org 0444

1	Mountwest Community and			
2	Technical College.	48700	\$	5,569,533

91 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2017 Org 0445

1	New River Community and			
2	Technical College.	35800	\$	5,499,133

92 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2017 Org 0446

1	Pierpont Community and			
2	Technical College.	93000	\$	7,323,810

93 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2017 Org 0447

1	Blue Ridge Community and			
2	Technical College.	88500	\$	4,480,111

94 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2017 Org 0464

1	West Virginia University –			
2	Parkersburg.	47100	\$	9,521,771

95 - Southern West Virginia Community and

Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2017 Org 0487

1	Southern West Virginia Community and		
2	Technical College.	44600	\$ 7,991,778

*96 - West Virginia Northern Community and
Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2017 Org 0489

1	West Virginia Northern Community and		
2	Technical College.	44700	\$ 6,898,459

*97 - Eastern West Virginia Community and
Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2017 Org 0492

1	Eastern West Virginia Community and		
2	Technical College.	41200	\$ 1,834,647

98 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2017 Org 0493

1	BridgeValley Community and		
2	Technical College.	71700	\$ 7,500,925

HIGHER EDUCATION POLICY COMMISSION

*479 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2017 Org 0441

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,438,271
3	Current Expenses.	13000	165,893
4	Higher Education Grant Program.	16400	39,019,864
5	Tuition Contract Program (R).	16500	1,249,555
6	Underwood-Smith Scholarship		
7	Program-Student Awards.	16700	328,349
8	Facilities Planning and		
9	Administration (R).	38600	1,771,849
10	PROMISE Scholarship – Transfer..	80000	18,500,000
11	HEAPS Grant Program (R).	86700	5,007,764
12	BRIM Premium.	91300	<u>15,708</u>
13	Total.		\$ 68,497,253

14 Any unexpended balances remaining in the appropriations
 15 for Unclassified – Surplus (fund 0589, appropriation 09700),
 16 Tuition Contract Program (fund 0589, appropriation 16500),
 17 Facilities Planning and Administration (fund 0589, appropriation
 18 38600), Capital Improvements – Surplus (fund 0589,
 19 appropriation 66100), Capital Outlay and Maintenance (fund
 20 0589, appropriation 75500), and HEAPS Grant Program (fund
 21 0589, appropriation 86700) at the close of the fiscal year 2016
 22 are hereby reappropriated for expenditure during the fiscal year
 23 2017, with the exception of fund 0589, fiscal year 2016,
 24 appropriation 38600 (\$75,910) which shall expire on June 30,
 25 2016.

26 The above appropriation for Facilities Planning and
 27 Administration (fund 0589, appropriation 38600) is for

28 operational expenses of the West Virginia Education, Research
29 and Technology Park between construction and full occupancy.

30 The above appropriation for Higher Education Grant
31 Program (fund 0589, appropriation 16400) shall be transferred
32 to the Higher Education Grant Fund (fund 4933, org 0441)
33 established by W.Va. Code §18C-5-3.

34 The above appropriation for Underwood-Smith Scholarship
35 Program-Student Awards (fund 0589, appropriation 16700) shall
36 be transferred to the Underwood-Smith Teacher Scholarship and
37 Loan Assistance Fund (fund 4922, org 0441) established by
38 W.Va. Code §18C-4-1.

39 The above appropriation for PROMISE Scholarship –
40 Transfer (fund 0589, appropriation 80000) shall be transferred
41 to the PROMISE Scholarship Fund (fund 4296, org 0441)
42 established by W.Va. Code §18C-7-7.

*100 - Higher Education Policy Commission –
Administration –
West Virginia Network for Educational Telecomputing
(WVNET)*

(WV Code Chapter 18B)

Fund 0551 FY 2017 Org 0495

1 WVNET..... 16900 \$ 1,654,572

*101 - West Virginia University –
School of Medicine
Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2017 Org 0463

1	WVU School of Health Science –		
2	Eastern Division.	05600	\$ 2,248,472
3	WVU – School of Health Sciences.	17400	15,515,841
4	WVU – School of Health Sciences –		
5	Charleston Division.	17500	2,312,518
6	Rural Health Outreach		
7	Programs (R).	37700	170,125
8	West Virginia University School of		
9	Medicine		
10	BRIM Subsidy.	46000	<u>1,161,281</u>
11	Total.		\$ 21,408,237

12 Any unexpended balance remaining in the appropriations for
13 Rural Health Outreach Programs (fund 0343, appropriation
14 37700), and Educational Enhancements – Surplus (fund 0343,
15 appropriation 92700) at the close of the fiscal year 2016 are
16 hereby reappropriated for expenditure during the fiscal year
17 2017, with the exception of fund 0343, fiscal year 2016,
18 appropriation 37700 (\$7,029) which shall expire on June 30,
19 2016.

20 The above appropriation for Rural Health Outreach
21 Programs (fund 0343, appropriation 37700) includes rural health
22 activities and programs; rural residency development and
23 education; and rural outreach activities.

24 The above appropriation for West Virginia University
25 School of Medicine BRIM Subsidy (fund 0343, appropriation
26 46000) shall be paid to the Board of Risk and Insurance
27 Management as a general revenue subsidy against the “Total
28 Premium Billed” to the institution as part of the full cost of their
29 malpractice insurance coverage.

*102 - West Virginia University –
General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2017 Org 0463

1	West Virginia University.....	45900	\$	97,819,653
2	Jackson's Mill (R).....	46100		239,505
3	West Virginia University Institute for			
4	Technology.	47900		7,987,811
5	State Priorities – Brownfield			
6	Professional Development (R). 53100			337,503
7	West Virginia University –			
8	Potomac State.	99400		<u>3,921,488</u>
9	Total.....		\$	110,305,960
10	Any unexpended balances remaining in the appropriations			
11	for Jackson's Mill (fund 0344, appropriation 46100), and State			
12	Priorities – Brownfield Professional Development (fund 0344,			
13	appropriation 53100) at the close of the fiscal year 2016 are			
14	hereby reappropriated for expenditure during the fiscal year			
15	2017, with the exception of fund 0344, fiscal year 2016,			
16	appropriation 46100 (\$9,902) and fund 0344, fiscal year 2016,			
17	appropriation 53100 (\$13,931) which shall expire on June 30,			
18	2016.			

*103 - Marshall University –
School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2017 Org 0471

1	Marshall Medical School.....	17300	\$	12,179,256
2	Rural Health Outreach			
3	Programs (R).....	37700		167,616
4	Forensic Lab.	37701		241,438
5	Center for Rural Health.	37702		160,166
6	Marshall University Medical			
7	School BRIM Subsidy.....	44900		<u>842,290</u>
8	Total.....		\$	13,590,766

9 Any unexpended balance remaining in the appropriation for
 10 Rural Health Outreach Program (fund 0347, appropriation
 11 37700) at the close of the fiscal year 2016 is hereby
 12 reappropriated for expenditure during the fiscal year 2017, with
 13 the exception of fund 0347, fiscal year 2016, appropriation
 14 37700 (\$6,984) which shall expire on June 30, 2016.

15 The above appropriation for Rural Health Outreach
 16 Programs (fund 0347, appropriation 37700) includes rural health
 17 activities and programs; rural residency development and
 18 education; and rural outreach activities.

19 The above appropriation for Marshall University Medical
 20 School BRIM Subsidy (fund 0347, appropriation 44900) shall be
 21 paid to the Board of Risk and Insurance Management as a
 22 general revenue subsidy against the “Total Premium Billed” to
 23 the institution as part of the full cost of their malpractice
 24 insurance coverage.

*104 - Marshall University –
 General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2017 Org 0471

1	Marshall University.	44800	\$	45,926,078
2	Luke Lee Listening Language and			
3	Learning Lab.	44801		102,076
4	Vista E-Learning (R).	51900		249,089
5	State Priorities – Brownfield			
6	Professional Development (R).	53100		334,364
7	Marshall University Graduate			
8	College Writing Project (R).	80700		20,737
9	WV Autism Training Center (R).	93200		1,795,300
10	Total.		\$	48,427,644

11 Any unexpended balances remaining in the appropriations
 12 for Vista E-Learning (fund 0348, appropriation 51900), State
 13 Priorities – Brownfield Professional Development (fund 0348,
 14 appropriation 53100), Marshall University Graduate College
 15 Writing Project (fund 0348, appropriation 80700), and WV
 16 Autism Training Center (fund 0348, appropriation 93200) at the
 17 close of fiscal year 2016 are hereby reappropriated for
 18 expenditure during the fiscal year 2017, with the exception of
 19 fund 0348, fiscal year 2016, appropriation 51900 (\$10,368) and
 20 fund 0348, fiscal year 2016, appropriation 53100 (\$13,931)
 21 which shall expire on June 30, 2016.

105 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2017 Org 0476

1	West Virginia School of		
2	Osteopathic Medicine.	17200	\$ 6,798,239
3	Rural Health Outreach		
4	Programs (R).	37700	168,354
5	West Virginia School of		
6	Osteopathic Medicine		
7	BRIM Subsidy.	40300	144,721
8	Rural Health Initiative –		
9	Medical Schools Support.	58100	404,968
10	Total.		\$ 7,516,282

11 Any unexpended balance remaining in the appropriation for
 12 Rural Health Outreach Programs (fund 0336, appropriation
 13 37700) at the close of fiscal year 2016 is hereby reappropriated
 14 for expenditure during the fiscal year 2017, with the exception
 15 of fund 0336, fiscal year 2016, appropriation 37700 (\$7,015)
 16 which shall expire on June 30, 2016.

17 The above appropriation for Rural Health Outreach
18 Programs (fund 0336, appropriation 37700) includes rural health
19 activities and programs; rural residency development and
20 education; and rural outreach activities.

21 The above appropriation for West Virginia School of
22 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
23 40300) shall be paid to the Board of Risk and Insurance
24 Management as a general revenue subsidy against the “Total
25 Premium Billed” to the institution as part of the full cost of their
26 malpractice insurance coverage.

106 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2017 Org 0482

1 Bluefield State College. 40800 \$ 5,636,862

107 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2017 Org 0483

1 Concord University. 41000 \$ 8,674,596

108 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2017 Org 0484

1 Fairmont State University. 41400 \$ 15,277,769

109 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2017 Org 0485

1 Glenville State College. 42800 \$ 5,891,397

110 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2017 Org 0486

1 Shepherd University. 43200 \$ 9,551,994

111 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2017 Org 0488

1 West Liberty University. 43900 \$ 7,956,371

112 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2017 Org 0490

1 West Virginia State University. 44100 \$ 10,003,071

2 West Virginia State University

3 Land Grant Match. 95600 1,584,947

4 Total. \$ 11,588,018

5 Total TITLE II, Section 1 — General Revenue

6 (Including claims against the state).. . \$4,206,008,000

1 **Sec. 2. Appropriations from state road fund.** — From the
2 state road fund there are hereby appropriated conditionally upon
3 the fulfillment of the provisions set forth in Article 2, Chapter
4 11B of the Code the following amounts, as itemized, for
5 expenditure during the fiscal year 2017.

DEPARTMENT OF TRANSPORTATION*113 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2017 Org 0802

	State Appro- piation	Road Fund
1 Personal Services and Employee		
2 Benefits.	00100	\$ 23,278,949
3 Current Expenses.	13000	16,191,004
4 Repairs and Alterations.	06400	144,000
5 Equipment.	07000	1,080,000
6 Buildings.	25800	10,000
7 Other Assets.	69000	2,600,000
8 BRIM Premium.	91300	74,776
9 Total.		\$ 43,378,729

114 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2017 Org 0803

1 Debt Service.	04000	\$ 24,000,000
2 Maintenance.	23700	369,354,000
3 Maintenance, Contract Paving and		
4 Secondary Road Maintenance. .	27200	83,000,000
5 Bridge Repair and Replacement. .	27300	15,000,000
6 Inventory Revolving.	27500	4,000,000
7 Equipment Revolving.	27600	15,000,000
8 General Operations.	27700	55,995,000
9 Interstate Construction.	27800	100,000,000

10	Other Federal Aid Programs.	27900	432,000,000
11	Appalachian Programs.	28000	120,000,000
12	Nonfederal Aid Construction.	28100	15,000,000
13	Highway Litter Control.	28200	1,727,000
14	Courtesy Patrol.	28201	<u>3,000,000</u>
15	Total.		\$1,238,076,000

16 The above appropriations are to be expended in accordance
 17 with the provisions of Chapters 17 and 17C of the code.

18 The commissioner of highways shall have the authority to
 19 operate revolving funds within the state road fund for the
 20 operation and purchase of various types of equipment used
 21 directly and indirectly in the construction and maintenance of
 22 roads and for the purchase of inventories and materials and
 23 supplies.

24 There is hereby appropriated in addition to the above
 25 appropriations, sufficient money for the payment of claims,
 26 accrued or arising during this budgetary period, to be paid in
 27 accordance with Sections 17 and 18, Article 2, Chapter 14 of the
 28 code.

29 It is the intent of the Legislature to capture and match all
 30 federal funds available for expenditure on the Appalachian
 31 highway system at the earliest possible time. Therefore, should
 32 amounts in excess of those appropriated be required for the
 33 purposes of Appalachian programs, funds in excess of the
 34 amount appropriated may be made available upon
 35 recommendation of the commissioner and approval of the
 36 Governor. Further, for the purpose of Appalachian programs,
 37 funds appropriated by appropriation may be transferred to other
 38 appropriations upon recommendation of the commissioner and
 39 approval of the Governor.

(WV Code Chapter 17C)

Fund 9027 FY 2017 Org 0808

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,585,201
3	Current Expenses.	13000	338,278
4	Repairs and Alterations.	06400	3,000
5	Equipment.	07000	15,500
6	BRIM Premium.	91300	<u>10,000</u>
7	Total.		\$ 1,951,979
8	Total TITLE II, Section 2 — State Road Fund		
9	(Including claims against the state).. .		<u>\$1,284,345,192</u>

1 **Sec. 3. Appropriations from other funds.** — From the
2 funds designated there are hereby appropriated conditionally
3 upon the fulfillment of the provisions set forth in Article 2,
4 Chapter 11B of the Code the following amounts, as itemized, for
5 expenditure during the fiscal year 2017.

LEGISLATIVE

116 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2017 Org 2300

		Appro- priation	Other Funds
1	Personal Services and Employee		
2	Benefits.	00100	\$ 498,020
3	Current Expenses.	13000	133,903
4	Repairs and Alterations.	06400	1,000
5	Economic Loss Claim Payment		
6	Fund.	33400	3,460,125

7	Other Assets.....	69000		<u>3,700</u>
8	Total.....		\$	4,096,748

JUDICIAL

*117 - Supreme Court –
Family Court Fund*

(WV Code Chapter 51)

Fund 1763 FY 2017 Org 2400

1	Current Expenses.....	13000	\$	1,600,000
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EXECUTIVE

*118 - Governor's Office –
Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2017 Org 0100

1	Personal Services and Employee			
2	Benefits.....	00100	\$	172,800
3	Current Expenses.....	13000		503,200
4	Martin Luther King, Jr. Holiday			
5	Celebration.....	03100		<u>8,926</u>
6	Total.....		\$	684,926

*119 - Auditor's Office –
Land Operating Fund*

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2017 Org 1200

1	Personal Services and Employee			
2	Benefits.....	00100	\$	642,647

3	Unclassified.	09900		15,139
4	Current Expenses.	13000		440,291
5	Repairs and Alterations.	06400		2,600
6	Equipment.	07000		426,741
7	Cost of Delinquent Land Sales.	76800		<u>1,341,168</u>
8	Total.		\$	2,868,586

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the necessary amount for the
11 expenditure of funds other than personal services and employee
12 benefits to enable the division to pay the direct expenses relating
13 to land sales as provided in Chapter 11A of the West Virginia
14 Code.

15 The total amount of these appropriations shall be paid from
16 the special revenue fund out of fees and collections as provided
17 by law.

*120 - Auditor's Office –
Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2017 Org 1200

1	Personal Services and Employee			
2	Benefits.	00100	\$	308,087
3	Current Expenses.	13000		62,030
4	Repairs and Alterations.	06400		6,000
5	Equipment.	07000		10,805
6	Other Assets.	69000		50,000
7	Statutory Revenue Distribution.	74100		<u>1,500,000</u>
8	Total.		\$	1,936,922

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the amount necessary to
11 meet the transfer of revenue distribution requirements to provide

- 12 a proportionate share of rebates back to the general fund of local
 13 governments based on utilization of the program in accordance
 14 with W.Va. Code §6-9-2b.

*121 - Auditor's Office –
 Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,882,510
3	Unclassified.	09900	31,866
4	Current Expenses.	13000	838,830
5	Repairs and Alterations.	06400	12,400
6	Equipment.	07000	19,700
7	Other Assets.	69000	<u>673,326</u>
8	Total.		\$ 3,458,632

*122 - Auditor's Office –
 Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2017 Org 1200

1	Current Expenses.	13000	\$ 160,000
2	Other Assets.	69000	<u>100,000</u>
3	Total.		\$ 260,000

- 4 Fifty percent of the deposits made into this fund shall be
 5 transferred to the Treasurer's Office – Technology Support and
 6 Acquisition Fund (fund 1329, org 1300) for expenditure for the
 7 purposes described in W.Va. Code §12-3-10c.

*123 - Auditor's Office –
 Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,499,307
3	Current Expenses.	13000	1,578,622
4	Repairs and Alterations.	06400	5,500
5	Equipment.	07000	650,000
6	Other Assets.	69000	308,886
7	Statutory Revenue Distribution.	74100	<u>4,000,000</u>
8	Total.		\$ 9,042,315

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the amount necessary to
11 meet the transfer and revenue distribution requirements to the
12 Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy
13 Regional Recreation Authority, and the State Park Operating
14 Fund (fund 3265) per W.Va. Code §12-3-10d.

*124 - Auditor's Office –
Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,405,512
3	Current Expenses.	13000	765,915
4	Equipment.	07000	<u>50,000</u>
5	Total.		\$ 4,221,427

*505 - Auditor's Office –
Volunteer Fire Department Workers'
Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2017 Org 1200

1	Volunteer Fire Department		
2	Workers' Compensation		
3	Subsidy.	83200	\$ 2,500,000

*126 - Treasurer's Office –
College Prepaid Tuition and Savings Program
Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 774,769
3	Unclassified.	09900	14,000
4	Current Expenses.	13000	<u>619,862</u>
5	Total.		\$ 1,408,631

*127 - Treasurer's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1329 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 185,000
3	Unclassified.	09900	4,700
4	Current Expenses.	13000	236,949
5	Other Assets.	69000	<u>50,000</u>
6	Total.		\$ 476,649

*128 - Department of Agriculture –
Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,244,245
3	Unclassified.	09900	37,425
4	Current Expenses.	13000	1,356,184
5	Repairs and Alterations.	06400	58,500
6	Equipment.	07000	36,209
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 3,742,563

*129 - Department of Agriculture –
West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 73,807
3	Unclassified.	09900	10,476
4	Current Expenses.	13000	<u>963,404</u>
5	Total.		\$ 1,047,687

*130 - Department of Agriculture –
General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2017 Org 1400

1	Unclassified.	09900	\$ 2,100
2	Current Expenses.	13000	129,500
3	Repairs and Alterations.	06400	47,400
4	Equipment.	07000	<u>31,000</u>
5	Total.		\$ 210,000

6 The above appropriations shall be expended in accordance
7 with Article 26, Chapter 19 of the Code.

*131 - Department of Agriculture –
Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 309,248
3	Unclassified.	09900	15,173
4	Current Expenses.	13000	1,167,464
5	Repairs and Alterations.	06400	238,722
6	Equipment.	07000	249,393
7	Other Assets.	69000	20,000
8	Total.		\$ 2,000,000

*132 - Department of Agriculture –
Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 958,864
3	Unclassified.	09900	45,807
4	Current Expenses.	13000	3,410,542
5	Repairs and Alterations.	06400	128,500
6	Equipment.	07000	10,000
7	Other Assets.	69000	27,000
8	Total.		\$ 4,580,713

*133 - Department of Agriculture –
Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2017 Org 1400

1 Current Expenses..... 13000 \$ 100,000

*134 - Department of Agriculture –
West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2017 Org 1400

1 Current Expenses..... 13000 \$ 100

*135 - Department of Agriculture –
Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)

Fund 1483 FY 2017 Org 1400

1 Current Expenses..... 13000 \$ 7,500

*136 - Attorney General –
Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits..... 00100	\$	356,900
3	Current Expenses..... 13000		148,803
4	Repairs and Alterations..... 06400		1,000
5	Equipment..... 07000		<u>1,000</u>
6	Total.....	\$	507,703

*137 - Attorney General –
Prened Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits.	00100	\$ 210,226
3	Current Expenses.	13000	54,615
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	<u>1,000</u>
6	Total.		\$ 266,841

*138 - Attorney General –
Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2017 Org 1500

1	Current Expenses.	13000	\$ 901,135
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*139 - Secretary of State –
Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 791,051
3	Unclassified.	09900	4,524
4	Current Expenses.	13000	<u>8,036</u>
5	Total.		\$ 803,611

*140 - Secretary of State –
General Administrative Fees Account*

(WV Code Chapters 3, 5 and 59)

Fund 1617 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,769,898
3	Unclassified.	09900	25,529
4	Current Expenses.	13000	796,716
5	Technology Improvements.	59900	<u>750,000</u>
6	Total.		\$ 4,342,143

DEPARTMENT OF ADMINISTRATION

*141 - Department of Administration –
Office of the Secretary –
Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2017 Org 0201

1	Tobacco Settlement Securitization		
2	Trustee Pass Thru.	65000	\$ 80,000,000

*142- Department of Administration –
Office of the Secretary –
Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2017 Org 0201

1	Current Expenses.	13000	\$ 37,656,000
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2 The above appropriation for Current Expenses (fund 2044,
3 appropriation 13000) shall be transferred to the Consolidated
4 Public Retirement Board – West Virginia Teachers’ Retirement
5 System Employers Accumulation Fund (fund 2601).

143 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2017 Org 0210

1	Personal Services and Employee		
2	Benefits.	00100	\$ 23,378,322
3	Unclassified.	09900	382,354
4	Current Expenses.	13000	11,378,766
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	2,050,000
7	Other Assets.	69000	<u>1,045,000</u>
8	Total.		\$ 38,235,442

9 The total amount of these appropriations shall be paid from
 10 a special revenue fund out of collections made by the division of
 11 information services and communications as provided by law.

12 Each spending unit operating from the general revenue fund,
 13 from special revenue funds or receiving reimbursement for
 14 postage from the federal government shall be charged monthly
 15 for all postage meter service and shall reimburse the revolving
 16 fund monthly for all such amounts.

143-A - Capitol Dome and Capitol Improvements Fund

(WV Code Chapter 5A)

Fund 2257 FY 2017 Org 0211

1	Capital Outlay and		
2	Maintenance	75500	\$ 28,000,000

*143-B - Division of Purchasing –
 Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2017 Org 0213

1	Personal Services and Employee		
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6	Equipment.	07000	800,000
7	Other Assets.	69000	<u>2,000</u>
8	Total.		\$ 9,671,200

*146 - Travel Management –
Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2017 Org 0215

1	Unclassified.	09900	\$ 1,000
2	Current Expenses.	13000	149,700
3	Repairs and Alterations.	06400	400,237
4	Equipment.	07000	1,000
5	Buildings.	25800	100
6	Other Assets.	69000	100
7	Land.	73000	<u>100</u>
8	Total.		\$ 552,237

9 From the above account, no funds may be expended in the
10 maintenance and operation of the Aviation Division's Cessna
11 Grand Caravan, except for those incidental to the sale of the
12 aircraft or the preparation for its sale to the public.

147 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2017 Org 0222

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,942,590
3	Unclassified.	09900	51,418
4	Current Expenses.	13000	1,062,813
5	Repairs and Alterations.	06400	5,000
6	Equipment.	07000	20,000
7	Other Assets.	69000	<u>60,000</u>

9 From the above fund, the provisions of W.Va. Code
10 §11B-2-18 shall not operate to permit expenditures in excess of
11 the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

150 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,464,328
3	Current Expenses.	13000	282,202
4	Repairs and Alterations.	06400	<u>53,000</u>
5	Total.		\$ 1,799,530

*151 - Division of Forestry –
Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 224,433
3	Current Expenses.	13000	87,036
4	Repairs and Alterations.	06400	<u>11,250</u>
5	Total.		\$ 322,719534

*152 - Division of Forestry –
Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2017 Org 0305

1 Personal Services and Employee

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,519,374
3	Unclassified.	09900	21,589
4	Current Expenses.	13000	597,995
5	Repairs and Alterations.	06400	15,000
6	Buildings.	25800	<u>5,000</u>
7	Total.		\$ 2,158,958

*156 - Division of Labor –
Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 176,772
3	Unclassified.	09900	2,261
4	Current Expenses.	13000	44,112
5	Repairs and Alterations.	06400	2,000
6	Buildings.	25800	<u>1,000</u>
7	Total.		\$ 226,145

*157 - Division of Labor –
Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 84,380

2016]	HOUSE OF DELEGATES	2663
3	Unclassified. 09900	1,380
4	Current Expenses. 13000	49,765
5	Repairs and Alterations. 06400	1,500
6	Buildings. 25800	<u>1,000</u>
7	Total.	\$ 138,025

*158 - Division of Labor –
Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2017 Org 0308

1	Personal Services and Employee	
2	Benefits. 00100	\$ 79,316
3	Unclassified. 09900	1,281
4	Current Expenses. 13000	44,520
5	Repairs and Alterations. 06400	2,000
6	Buildings. 25800	<u>1,000</u>
7	Total.	\$ 128,117

*159 - Division of Labor –
State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2017 Org 0308

	Personal Services and Employee	
	Benefits. 00100	\$ 133,768
	Unclassified. 09900	1,847
	Current Expenses. 13000	43,700
	Repairs and Alterations. 06400	1,000
	Buildings. 25800	1,000
	BRIM Premium. 91300	<u>3,404</u>
	Total.	\$ 184,719

160 - Division of Labor –

Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2017 Org 0308

1	Current Expenses.....	13000	\$	48,000
2	Repairs and Alterations.....	06400		81,000
3	Equipment.....	07000		<u>76,000</u>
4	Total.....		\$	205,000

*161 - Division of Natural Resources –
License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2017 Org 0310

1	Wildlife Resources.....	02300	\$	5,551,895
2	Administration.....	15500		1,387,974
3	Capital Improvements and			
4	Land Purchase (R).....	24800		1,387,973
5	Law Enforcement.....	80600		<u>5,551,895</u>
6	Total.....		\$	13,879,737

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of fees collected by the division of
9 natural resources.

10 Any unexpended balance remaining in the appropriation for
11 Capital Improvements and Land Purchase (fund 3200,
12 appropriation 24800) at the close of the fiscal year 2016 is
13 hereby reappropriated for expenditure during the fiscal year
14 2017.

*162 - Division of Natural Resources –
Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2017 Org 0310

1	Current Expenses.....	13000	\$	125,000
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*163 - Division of Natural Resources –
Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2017 Org 0310

1	Personal Services and Employee			
2	Benefits.....	00100	\$	678,109
3	Current Expenses.....	13000		201,930
4	Equipment.....	07000		<u>106,615</u>
5	Total.....		\$	986,654

*164 - Division of Natural Resources –
Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2017 Org 0310

1	Personal Services and Employee			
2	Benefits.....	00100	\$	189,520
3	Current Expenses.....	13000		157,864
4	Repairs and Alterations.....	06400		15,016
5	Equipment.....	07000		8,300
6	Buildings.....	25800		8,300
7	Other Assets.....	69000		1,000,000
8	Land.....	73000		<u>31,700</u>
9	Total.....		\$	1,410,700

*165 - Division of Natural Resources –
Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 62,704
3	Current Expenses.	13000	64,778
4	Equipment.	07000	1,297
5	Buildings.	25800	<u>6,969</u>
6	Total.		\$ 135,748

*166 - Division of Natural Resources –
Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2017 Org 0310

1	Unclassified.	09900	\$ 200
2	Current Expenses.	13000	<u>19,800</u>
3	Total.		\$ 20,000

*167 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 471,606
3	WV Mining Extension Service.	02600	150,000
4	Unclassified.	09900	40,985
5	Current Expenses.	13000	1,954,557
6	Buildings.	25800	481,358
7	Land.	73000	<u>1,000,000</u>
8	Total.		\$ 4,098,506

2016]

HOUSE OF DELEGATES

2667

*168 - Department of Commerce –
Office of the Secretary –
Broadband Enhancement Fund*

Fund 3013 FY 2017 Org 0327

1 Current Expenses..... 13000 \$ 1,887,000

*169 - Division of Energy –
Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2017 Org 0328

1 Energy Assistance – Total..... 64700 \$ 62,000

*170 - Division of Energy –
Office of Coal Field Community Development*

(WV Code Chapter 5B)

Fund 3011 FY 2017 Org 0328

1	Personal Services and Employee		
2	Benefits..... 00100	\$	430,724
3	Unclassified..... 09900		8,300
4	Current Expenses..... 13000		394,191
5	Repairs and Alterations..... 06400		1,000
6	Equipment..... 07000		<u>4,000</u>
7	Total.....	\$	838,215

DEPARTMENT OF EDUCATION

*171 - State Board of Education –
Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 134,000
3	Unclassified.	09900	1,000
4	Current Expenses.	13000	265,000
5	Total.		\$ 400,000

*172 - State Board of Education –
School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2017 Org 0402

1	SBA Construction Grants.	24000	\$ 27,217,000
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173 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,087,932
3	Current Expenses.	13000	249,750
4	Repairs and Alterations.	06400	7,500
5	Equipment.	07000	<u>26,000</u>
6	Total.		\$ 1,371,182

7 The above appropriations are for the administrative expenses
8 of the school building authority and shall be paid from the
9 interest earnings on debt service reserve accounts maintained on
10 behalf of said authority.

*174 - State Board of Education –
State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 3960 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,169,194
3	Unclassified.	09900	17,000
4	Current Expenses.	13000	707,223
5	Repairs and Alterations.	06400	57,500
6	Equipment.	07000	1,000
7	Buildings.	25800	1,000
8	Other Assets.	69000	10,000
9	Land	73000	<u>1,000</u>
10	Total.		\$ 1,963,917

DEPARTMENT OF EDUCATION AND THE ARTS

*175 - Office of the Secretary –
Lottery Education Fund Interest Earnings –
Control Account*

(WV Code Chapter 29)

Fund 3508 FY 2017 Org 0431

1 Any unexpended balance remaining in the appropriation for
2 Educational Enhancements (fund 3508, appropriation 69500) at
3 the close of the fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

*176 - Division of Culture and History –
Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 211,418
3	Current Expenses.	13000	862,241

4	Equipment.	07000	75,000
5	Buildings.	25800	1,000
6	Other Assets.	69000	52,328
7	Land.	73000	<u>1,000</u>
8	Total.		\$ 1,202,987

*177 - State Board of Rehabilitation –
Division of Rehabilitation Services –
West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 119,738
3	Current Expenses.	13000	2,180,122
4	Repairs and Alterations.	06400	85,500
5	Equipment.	07000	220,000
6	Buildings.	25800	150,000
7	Other Assets.	69000	<u>150,000</u>
8	Total.		\$ 2,905,360

DEPARTMENT OF ENVIRONMENTAL PROTECTION

178 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2017 Org 0312

1	Personal Services and Employee		
2	Benefits.	00100	\$ 802,209
3	Current Expenses.	13000	2,061,057
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	5,000
6	Other Assets.	69000	<u>4,403</u>
7	Total.		\$ 2,873,669

*179 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	692,784
3	Current Expenses. 13000		195,569
4	Repairs and Alterations. 06400		500
5	Equipment. 07000		1,505
6	Unclassified. 09900		3,072
7	Other Assets. 69000		2,000
8	Total.	\$	895,430

*180 - Division of Environmental Protection –
Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	935,324
3	Current Expenses. 13000		1,238,610
4	Repairs and Alterations. 06400		13,000
5	Equipment. 07000		53,105
6	Unclassified. 09900		2,900
7	Other Assets. 69000		20,000
8	Total.	\$	2,262,939

*181 - Division of Environmental Protection –
Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,350,829
3	Current Expenses.	13000	16,402,506
4	Repairs and Alterations.	06400	79,950
5	Equipment.	07000	130,192
6	Other Assets.	69000	<u>32,000</u>
7	Total.		\$ 17,995,477

*182 - Division of Environmental Protection –
Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 15,314
3	Current Expenses.	13000	<u>356,094</u>
4	Total.		\$ 371,408

*183 - Division of Environmental Protection –
Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,264,961
3	Current Expenses.	13000	1,313,961
4	Repairs and Alterations.	06400	20,600
5	Equipment.	07000	8,000
6	Unclassified.	09900	44,700
7	Other Assets.	69000	<u>15,000</u>
8	Total.		\$ 4,667,222

*184 - Division of Environmental Protection –
Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,635,449
3	Current Expenses.	13000	2,406,092
4	Repairs and Alterations.	06400	60,260
5	Equipment.	07000	85,134
6	Unclassified.	09900	920
7	Other Assets.	69000	<u>57,500</u>
8	Total.		\$ 7,245,355

*185 - Division of Environmental Protection –
Underground Storage Tank
Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 466,543
3	Current Expenses.	13000	318,420
4	Repairs and Alterations.	06400	5,350
5	Equipment.	07000	3,610
6	Unclassified.	09900	7,520
7	Other Assets.	69000	<u>3,500</u>
8	Total.		\$ 804,943

*186 - Division of Environmental Protection –
Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2017 Org 0313

1 Personal Services and Employee

2	Benefits.	00100	\$	643,319
3	Current Expenses.	13000		422,386
4	Repairs and Alterations.	06400		7,014
5	Equipment.	07000		9,000
6	Unclassified.	09900		10,616
7	Other Assets.	69000		<u>11,700</u>
8	Total.		\$	1,104,035

*187 - Division of Environmental Protection –
Solid Waste Reclamation and
Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	793,967
3	Current Expenses.	13000		3,605,237
4	Repairs and Alterations.	06400		25,000
5	Equipment.	07000		31,500
6	Unclassified.	09900		22,900
7	Other Assets.	69000		<u>1,000</u>
8	Total.		\$	4,479,604

*188 - Division of Environmental Protection –
Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.	00100	\$	3,041,424
3	Current Expenses.	13000		1,020,229
4	Repairs and Alterations.	06400		30,930
5	Equipment.	07000		23,356
6	Unclassified.	09900		37,145

7	Other Assets.....	69000		<u>25,554</u>
8	Total.....		\$	4,178,638

*189 - Division of Environmental Protection –
Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.....	00100	\$	5,667,421
3	Current Expenses.....	13000		1,518,704
4	Repairs and Alterations.....	06400		84,045
5	Equipment.....	07000		115,356
6	Unclassified.....	09900		5,580
7	Other Assets.....	69000		<u>52,951</u>
8	Total.....		\$	7,444,057

*190 - Division of Environmental Protection –
Environmental Laboratory
Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2017 Org 0313

1	Personal Services and Employee			
2	Benefits.....	00100	\$	296,164
3	Current Expenses.....	13000		216,288
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		6,500
6	Unclassified.....	09900		400
7	Other Assets.....	69000		<u>4,000</u>
8	Total.....		\$	524,352

*191 - Division of Environmental Protection –
Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2017 Org 0313

1 Current Expenses..... 13000 \$ 10,298,205

*192 - Division of Environmental Protection –
Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2017 Org 0313

1 Current Expenses..... 13000 \$ 60,000

*193 - Division of Environmental Protection –
Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits..... 00100	\$	646,395
3	Current Expenses..... 13000		2,735,112
4	Repairs and Alterations..... 06400		800
5	Equipment..... 07000		500
6	Unclassified..... 09900		400
7	Other Assets..... 69000		<u>2,500</u>
8	Total.....	\$	<u>3,385,707</u>

*194 - Division of Environmental Protection –
Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2017 Org 0313

1 Personal Services and Employee

*197 - Division of Health –
Hospital Services Revenue Account
Special Fund
Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2017 Org 0506

1	Institutional Facilities Operations. 33500	\$	56,708,911
2	Medical Services Trust Fund –		
3	Transfer. 51200		<u>27,800,000</u>
4	Total.	\$	84,508,911

5 The total amount of these appropriations shall be paid from
6 the hospital services revenue account special fund created by
7 W.Va. Code §16-1-13, and shall be used for operating expenses
8 and for improvements in connection with existing facilities.

9 Additional funds have been appropriated in fund 0525, fiscal
10 year 2017, organization 0506, for the operation of the
11 institutional facilities. The secretary of the department of health
12 and human resources is authorized to utilize up to ten percent of
13 the funds from the appropriation for Institutional Facilities
14 Operations to facilitate cost effective and cost saving services at
15 the community level.

16 Necessary funds from the above appropriation may be used
17 for medical facilities operations, either in connection with this
18 fund or in connection with the appropriation designated
19 Institutional Facilities Operations in the consolidated medical
20 service fund (fund 0525, organization 0506).

21 From the above appropriation to Institutional Facilities
22 Operations, together with available funds from the consolidated
23 medical services fund (fund 0525, appropriation 33500) on July
24 1, 2016, the sum of \$160,000 shall be transferred to the

25 department of agriculture – land division – farm operation fund
 26 (1412) as advance payment for the purchase of food products;
 27 actual payments for such purchases shall not be required until
 28 such credits have been completely expended.

*198 - Division of Health –
 Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 912,657
3	Unclassified.	09900	18,114
4	Current Expenses.	13000	<u>880,716</u>
5	Total.		\$ 1,811,487

*199 - Division of Health –
 The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 605,950
3	Unclassified.	09900	7,113
4	Current Expenses.	13000	98,247
5	Total.		\$ 711,310

*200 - Division of Health –
 Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2017 Org 0506

1	Current Expenses.	13000	\$ 13,800
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201A- Division of Health –
Breast and Cervical Cancer Diagnostic Treatment Fund

(WV Code Chapter 16)

Fund 5197 FY 2017 Org 0506

1	Breast and Cervical Cancer		
2	Diagnostic Treatment.	#####	\$ 410,000
3	West Virginia Birth-to-Three Fund –		
4	Transfer.	#####	<u>1,000,000</u>
5	Total.		\$ 1,410,000

6 The above appropriation to West Virginia Birth-to-Three
7 Fund – Transfer, (appropriation #####) shall be transferred to
8 the West Virginia Birth-to-Three Fund (fund 5214) for
9 expenditure.

201 - Division of Health –
Lead Abatement Account

(WV Code Chapter 16)

Fund 5204 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 19,100
3	Unclassified.	09900	373
4	Current Expenses.	13000	<u>17,875</u>
5	Total.		\$ 37,348

201A- Division of Health –
Breast and Cervical Cancer Diagnostic Treatment Fund

(WV Code Chapter 16)

Fund 5197 FY 2017 Org 0506

1 Breast and Cervical Cancer

2016]

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2	Diagnostic Treatment. #####	\$	410,000
3	West Virginia Birth-to-Three Fund –		
4	Transfer. #####		<u>1,000,000</u>
5	Total.	\$	1,410,000

6 The above appropriation to West Virginia Birth-to-Three
7 Fund – Transfer, (appropriation #####) shall be transferred to
8 the West Virginia Birth-to-Three Fund (fund 5214) for
9 expenditure.

*202 - Division of Health –
West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	707,545
3	Unclassified. 09900		223,999
4	Current Expenses. 13000		<u>25,668,438</u>
5	Total.	\$	26,599,982

*203- Division of Health –
Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2017 Org 0506

1	Current Expenses. 13000	\$	7,579
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*204 - West Virginia Health Care Authority –
Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2017 Org 0507

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,033,821
3	Hospital Assistance.	02500	600,000
4	Unclassified.	09900	67,000
5	Current Expenses.	13000	2,837,945
6	Repairs and Alterations.	06400	25,000
7	Equipment.	07000	50,000
8	Buildings.	25800	25,000
9	Other Assets.	69000	<u>100,000</u>
10	Total.		\$ 6,738,766

11 The above appropriation is to be expended in accordance
 12 with and pursuant to the provisions of W.Va. Code §16-29B and
 13 from the special revolving fund designated health care cost
 14 review fund.

15 The Health Care Authority is authorized to transfer up to
 16 \$1,500,000 from fund 5375 to the West Virginia Health
 17 Information Network Account (fund 5380) as authorized per
 18 W.Va. Code §16-29G-4.

*205 - West Virginia Health Care Authority –
 West Virginia Health Information Network Account*

(WV Code Chapter 16)

Fund 5380 FY 2017 Org 0507

1	Personal Services and Employee		
2	Benefits.	00100	\$ 729,000
3	Unclassified.	09900	20,000
4	Current Expenses.	13000	1,251,000
5	Technology Infrastructure		
6	Network.	35100	<u>3,500,000</u>
7	Total.		\$ 5,500,000

206 - Division of Human Services –

*Health Care Provider Tax –
Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2017 Org 0511

1	Medical Services.	18900	\$	198,381,008
2	Medical Services Administrative			
3	Costs.	78900		418,992
4	Total..		\$	198,800,000

5 The above appropriation for Medical Services
6 Administrative Costs (fund 5090, appropriation 78900) shall be
7 transferred to a special revenue account in the treasury for use by
8 the department of health and human resources for administrative
9 purposes. The remainder of all moneys deposited in the fund
10 shall be transferred to the West Virginia medical services fund
11 (fund 5084).

*207 - Division of Human Services –
Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2017 Org 0511

1	Personal Services and Employee			
2	Benefits.	00100	\$	24,809,509
3	Unclassified (R)..	09900		380,000
4	Current Expenses (R)..	13000		<u>12,810,491</u>
5	Total..		\$	38,000,000

6 Any unexpended balances remaining in the appropriations
7 for Unclassified (fund 5094, appropriation 09900) and Current
8 Expenses (fund 5094, appropriation 13000) at the close of the
9 fiscal year 2016 are hereby reappropriated for expenditure
10 during the fiscal year 2017.

*208 - Division of Human Services –
Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2017 Org 0511

1	Medical Services.	18900	\$	128,735,731
2	Medical Services Administrative			
3	Costs.	78900		<u>548,723</u>
4	Total.. . . .		\$	129,284,454

5 The above appropriation to Medical Services shall be used
6 to provide state match of Medicaid expenditures as defined and
7 authorized in subsection (c) of W.Va. Code §9-4A-2a.
8 Expenditures from the fund are limited to the following:
9 payment of backlogged billings, funding for services to future
10 federally mandated population groups and payment of the
11 required state match for medicaid disproportionate share
12 payments. The remainder of all moneys deposited in the fund
13 shall be transferred to the division of human services accounts.

*209 - Division of Human Services –
James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2017 Org 0511

1	Personal Services and Employee			
2	Benefits.	00100	\$	89,392
3	Unclassified.	09900		16,031
4	Current Expenses.	13000		<u>1,497,688</u>
5	Total.. . . .		\$	1,603,111

*210 - Division of Human Services –
Domestic Violence Legal Services Fund*

2016]

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(WV Code Chapter 48)

Fund 5455 FY 2017 Org 0511

1	Current Expenses.....	13000	\$	1,077,982
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*211 - Division of Human Services –
West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2017 Org 0511

1	Current Expenses.....	13000	\$	1,065,000
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*212 - Division of Human Services –
West Virginia Works Separate State
Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2017 Org 0511

1	Current Expenses.....	13000	\$	3,250,000
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*213 - Division of Human Services –
Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2017 Org 0511

1	Personal Services and Employee			
2	Benefits.....	00100	\$	10,000
3	Current Expenses.....	13000		25,000
4	Total.....		\$	35,000

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*214 - Department of Military Affairs and Public Safety –
Office of the Secretary –
Law-Enforcement, Safety and Emergency Worker
Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2017 Org 0601

1	Current Expenses.....	13000	\$	32,000
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*215 - State Armory Board –
General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2017 Org 0603

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,643,528
3	Current Expenses.....	13000		750,000
4	Repairs and Alterations.....	06400		485,652
5	Equipment.....	07000		300,000
6	Buildings.....	25800		770,820
7	Land.....	73000		50,000
8	Total.....		\$	4,000,000

9 From the above appropriations, the Adjutant General may
10 receive and expend funds to conduct operations and activities to
11 include functions of the Military Authority. The Adjutant
12 General may transfer funds between appropriations, except no
13 funds may be transferred to Personal Services and Employee
14 Benefits (fund 6057, appropriation 00100).

*216 - Division of Homeland Security and
Emergency Management –
West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2017 Org 0606

- 1 Current Expenses..... 13000 \$ 2,000,000
- 2 Any unexpended balance remaining in the appropriation for
- 3 Unclassified – Total (fund 6295, appropriation 09600) at the
- 4 close of fiscal year 2016 is hereby reappropriated for expenditure
- 5 during the fiscal year 2017.

*217 - West Virginia Division of Corrections –
Parolee Supervision Fees*

(WV Code Chapter 62)

Fund 6362 FY 2017 Org 0608

- 1 Personal Services and Employee
- 2 Benefits..... 00100 \$ 1,013,793
- 3 Unclassified..... 09900 9,804
- 4 Current Expenses..... 13000 758,480
- 5 Equipment..... 07000 30,000
- 6 Other Assets..... 69000 40,129
- 7 Total..... \$ 1,852,206

*218 - West Virginia State Police –
Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2017 Org 0612

- 1 Personal Services and Employee
- 2 Benefits..... 00100 \$ 1,786,923
- 3 Current Expenses..... 13000 488,211
- 4 Repairs and Alterations..... 06400 204,500
- 5 Equipment..... 07000 3,350,000

6	Buildings.	25800		534,000
7	Other Assets.....	69000		5,000
8	BRIM Premium.	91300		<u>302,432</u>
9	Total.....		\$	6,871,066

10 The total amount of these appropriations shall be paid from
 11 the special revenue fund out of fees collected for inspection
 12 stickers as provided by law. Per W.Va. §17C-16-5(a) any
 13 balance remaining in the fund on the last day of June of each
 14 fiscal year, not required for the administration and enforcement
 15 of the provisions of this article, shall be transferred to the state
 16 road fund.

*219 - West Virginia State Police –
 Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2017 Org 0612

1	Current Expenses.....	13000	\$	1,327,000
2	Equipment.	07000		3,491,895
3	BRIM Premium.	91300		<u>154,452</u>
4	Total.....		\$	4,973,347

5 The total amount of these appropriations shall be paid from
 6 the special revenue fund out of receipts collected pursuant to
 7 W.Va. Code §11-15-9a and 16 and paid into a revolving fund
 8 account in the state treasury.

*220 - West Virginia State Police –
 Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2017 Org 0612

1	Buildings.	25800	\$	443,980
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Fund 6532 FY 2017 Org 0612

1	Current Expenses.....	13000	\$	8,300
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*224 - West Virginia State Police –
State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2017 Org 0612

1	Current Expenses.....	13000	\$	160,000
2	Repairs and Alterations.....	06400		40,000
3	Total.....		\$	200,000

225 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2017 Org 0615

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,971,039
3	Debt Service.....	04000		9,000,000
4	Current Expenses.....	13000		495,852
5	Repairs and Alterations.....	06400		4,000
6	Equipment.....	07000		1,743
7	Total.....		\$	11,472,634

*226 - Fire Commission –
Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2017 Org 0619

1	Personal Services and Employee			
2	Benefits.....	00100	\$	2,848,036
3	Unclassified.....	09900		3,800

Fund 3041 FY 2017 Org 0303

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,421,059
3	Unclassified.	09900	32,290
4	Current Expenses.	13000	729,227
5	Repairs and Alterations.	06400	500
6	Equipment.	07000	16,000
7	Other Assets.	69000	<u>30,000</u>
8	Total.		\$ 3,229,076

*2-A - Office of the Secretary –
Revenue Shortfall Reserve Fund*

(WV Code Chapter 11B)

Fund 7005 FY 2017 Org 0701

1	Medical Services Trust Fund -		
2	Transfer.	51200	\$ 29,700,496
3	VFD Workers' Compensation		
4	Premium Assistance -		
5	Transfer.	#####	2,000,000
6	Total.		\$ 31,700,496

7 The above appropriation to VFD Workers' Compensation
8 Premium Assistance – Transfer, appropriation #####, shall be
9 transferred to the State Fire Commission – Gifts, Grants and
10 Donations Fund, fund 6160, organization 0619, to be expended
11 by the State Fire Marshal for the purpose of administering a
12 Volunteer Fire Department Workers' Compensation Subsidy
13 Program in the same manner as the Volunteer Fire Department
14 Workers' Compensation Subsidy Program was administered by
15 the State Auditor prior to July 1, 2016, as prescribed in West
16 Virginia Code § 12-4-14a.

*230 - Office of the Secretary –
State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2017 Org 0701

1 Directed Transfer..... 70000 20,000,000

2 The above appropriation for Directed Transfer shall be
3 transferred to the Consolidated Public Retirement Board – West
4 Virginia Public Employees Retirement System Employers
5 Accumulation Fund (fund 2510).

*231 - Tax Division –
Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits..... 00100	\$	23,459
3	Current Expenses..... 13000		<u>7,717</u>
4	Total.....	\$	31,176

*232 - Tax Division –
Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits..... 00100	\$	655,203
3	Unclassified..... 09900		9,500
4	Current Expenses..... 13000		273,297
5	Repairs and Alterations..... 06400		7,000
6	Equipment..... 07000		<u>5,000</u>
7	Total.....	\$	950,000

*233 - Tax Division –
Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits. 00100	\$	254,162
3	Current Expenses. 13000		5,406
4	Total.	\$	259,568

*234 - Tax Division –
Reduced Cigarette Ignition Propensity
Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2017 Org 0702

1	Current Expenses. 13000		
2	Equipment. 07000	\$	35,000
3	Total.	\$	15,000
		\$	50,000

*235 - Tax Division –
Local Sales Tax and Excise Tax
Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,508,968
3	Unclassified. 09900		10,000
4	Current Expenses. 13000		784,563
5	Repairs and Alterations. 06400		1,000
6	Equipment. 07000		5,000
7	Total.	\$	2,309,531

*236 - State Budget Office –
Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2017 Org 0703

- 1 Public Employees Insurance
- 2 Reserve Fund – Transfer. 90300 \$ 6,800,000
- 3 The above appropriation for Public Employees Insurance
- 4 Reserve Fund – Transfer shall be transferred to the Medical
- 5 Services Trust Fund (fund 5185, org 0511) for expenditure.

*237 - Insurance Commissioner –
Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2017 Org 0704

- 1 Personal Services and Employee
- 2 Benefits. 00100 \$ 721,117
- 3 Current Expenses. 13000 1,357,201
- 4 Repairs and Alterations. 06400 3,000
- 5 Equipment. 07000 81,374
- 6 Buildings. 25800 8,289
- 7 Other Assets. 69000 11,426
- 8 Total. \$ 2,182,407

*238 - Insurance Commissioner –
Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2017 Org 0704

- 1 Personal Services and Employee
- 2 Benefits. 00100 \$ 552,228

3	Current Expenses.....	13000	202,152
4	Repairs and Alterations.....	06400	5,000
5	Equipment.....	07000	34,225
6	Buildings.....	25800	4,865
7	Other Assets.....	69000	<u>19,460</u>
8	Total.....		\$ 817,930

*239 - Insurance Commissioner –
Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2017 Org 0704

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 25,039,727
3	Current Expenses.....	13000	8,797,758
4	Repairs and Alterations.....	06400	68,614
5	Equipment.....	07000	1,728,240
6	Buildings.....	25800	25,000
7	Other Assets.....	69000	<u>340,661</u>
8	Total.....		\$ 36,000,000

*240 - Insurance Commissioner –
Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2017 Org 0704

1	Employee Benefits.....	01000	\$ 125,000
2	Current Expenses.....	13000	<u>549,875,000</u>
3	Total.....		\$ 550,000,000

*241- Insurance Commissioner –
Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2017 Org 0704

1 Current Expenses..... 13000 \$ 27,000,000

*242 - Insurance Commissioner –
Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2017 Org 0704

1 Current Expenses..... 13000 \$ 5,000,000

*243 - Insurance Commissioner –
Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2017 Org 0704

1 Current Expenses..... 13000 \$ 10,000,000

*244 - Lottery Commission –
Revenue Center Construction Fund*

(WV Code Chapter 29)

Fund 7209 FY 2017 Org 0705

1 Buildings..... 25800 \$ 500,000

245 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2017 Org 0706

1 Personal Services and Employee
2 Benefits..... 00100 \$ 247,523
3 Current Expenses..... 13000 144,844

4	Equipment.	07000		<u>100</u>
5	Total.		\$	392,467

*246 - Racing Commission –
Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2017 Org 0707

1	Medical Expenses – Total.	24500	\$	57,000
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2 The total amount of this appropriation shall be paid from the
3 special revenue fund out of collections of license fees and fines
4 as provided by law.

5 No expenditures shall be made from this fund except for
6 hospitalization, medical care and/or funeral expenses for persons
7 contributing to this fund.

*247 - Racing Commission –
Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2017 Org 0707

1	Personal Services and Employee			
2	Benefits.	00100	\$	256,665
3	Current Expenses.	13000		93,335
4	Other Assets.	69000		<u>5,000</u>
5	Total.		\$	355,000

*248 - Racing Commission –
General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2017 Org 0707

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,271,339
3	Current Expenses.	13000	566,248
4	Repairs and Alterations.	06400	7,000
5	Other Assets.	69000	<u>50,000</u>
6	Total.		\$ 2,894,587

*249 - Racing Commission –
Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs
to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2017 Org 0707

1	Personal Services and Employee		
2	Benefits.	00100	\$ 864,474
3	Current Expenses.	13000	214,406
4	Other Assets.	69000	<u>200,000</u>
5	Total.		\$ 1,278,880

*250 - Alcohol Beverage Control Administration –
Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2017 Org 0708

1	Personal Services and Employee		
2	Benefits.	00100	\$ 122,339
3	Current Expenses.	13000	69,186
4	Repairs and Alterations.	06400	7,263
5	Equipment.	07000	10,000
6	Buildings.	25800	100,000
7	Other Assets.	69000	<u>100</u>
8	Total.		\$ 308,888

9 To the extent permitted by law, four classified exempt
10 positions shall be provided from Personal Services and
11 Employee Benefits appropriation for field auditors.

251 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2017 Org 0708

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 5,413,237
3	Current Expenses.....	13000	2,897,577
4	Repairs and Alterations.....	06400	84,000
5	Equipment.....	07000	108,000
6	Buildings.....	25800	100
7	Purchase of Supplies for Resale. . .	41900	72,500,000
8	Transfer Liquor Profits and Taxes..	42500	20,000,000
9	Other Assets.....	69000	100
10	Land.....	73000	<u>100</u>
11	Total.....		\$ 101,003,114

12 The total amount of these appropriations shall be paid from
13 a special revenue fund out of liquor revenues and any other
14 revenues available.

15 The above appropriations include the salary of the
16 commissioner and the salaries, expenses and equipment of
17 administrative offices, warehouses and inspectors.

18 The above appropriations include funding for the
19 Tobacco/Alcohol Education Program.

20 There is hereby appropriated from liquor revenues, in
21 addition to the above appropriations as needed, the necessary
22 amount for the purchase of liquor as provided by law and the
23 remittance of profits and taxes to the General Revenue Fund.

252 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2017 Org 0933

1	Current Expenses.....	13000	\$	20,000
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DEPARTMENT OF TRANSPORTATION

253 - Division of Motor Vehicles –
Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2017 Org 0802

1	Current Expenses.....	13000	\$	189,000
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254 - Division of Motor Vehicles –
Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2017 Org 0802

1	Personal Services and Employee			
2	Benefits.....	00100	\$	2,852,799
3	Current Expenses.....	13000		4,882,937
4	Repairs and Alterations.....	06400		16,000
5	Equipment.....	07000		75,000
6	Other Assets.....	69000		10,000
7	BRIM Premium.....	91300		<u>74,775</u>
8	Total.....		\$	7,911,511

255 - Division of Highways –
A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2017 Org 0803

1	Current Expenses.....	13000	\$	1,650,000
2	State Road Fund – Transfer.....	#####		<u>2,500,000</u>
3	Total.....		\$	4,150,000

*256-A - Division of Highways –
Coal Resource Transportation Fund*

(WV Code Chapter 22)

Fund 8319 FY 2017 Org 0803

1	Current Expenses.....	13000	\$	1,650,000
2	State Road Fund – Transfer.....	#####		<u>2,500,000</u>
3	Total.....		\$	4,150,000

*256 - Public Port Authority –
Special Railroad and Intermodal Enhancement Fund*

(WV Code Chapter 17)

Fund 8254 FY 2017 Org 0806

1	Current Expenses.....	13000	\$	510,000
2	Other Assets.....	69000		<u>3,490,000</u>
3	Total.....		\$	4,000,000

DEPARTMENT OF VETERANS' ASSISTANCE

257 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2017 Org 0613

1	Personal Services and Employee			
2	Benefits.....	00100	\$	94,210
3	Current Expenses.....	13000		2,273,997
4	Repairs and Alterations.....	06400		10,000

(WV Code Chapter 18B)

Fund 4322 FY 2017 Org 0464

1	Capital Outlay, Repairs and		
2	Equipment.	58900	\$ 532,000

3 The total amount of this appropriation shall be used for the
 4 purchase of additional real property or technology, or for capital
 5 improvements at the institution.

HIGHER EDUCATION POLICY COMMISSION

*261 - Higher Education Policy Commission –
 System –
 Tuition Fee Capital Improvement Fund
 (Capital Improvement and Bond Retirement Fund)
 Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2017 Org 0442

1	Debt Service.	04000	\$ 27,720,321
2	General Capital Expenditures.	30600	5,000,000
3	Facilities Planning and		
4	Administration.	38600	<u>421,082</u>
5	Total.		\$ 33,141,403

6 The total amount of these appropriations shall be paid from
 7 the special capital improvement fund created in W.Va. Code
 8 §18B-10-8. Projects are to be paid on a cash basis and made
 9 available on July 1.

10 The above appropriations, except for debt service, may be
 11 transferred to special revenue funds for capital improvement
 12 projects at the institutions.

262 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2017 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay (fund 4906, appropriation 51100) at the close of
3 the fiscal year 2016 is hereby reappropriated for expenditure
4 during the fiscal year 2017.

5 The appropriation shall be paid from available unexpended
6 cash balances and interest earnings accruing to the fund. The
7 appropriation shall be expended at the discretion of the Higher
8 Education Policy Commission and the funds may be allocated to
9 any institution within the system.

10 The total amount of this appropriation shall be paid from the
11 unexpended proceeds of revenue bonds previously issued
12 pursuant to W.Va. Code §18-12B-8, which have since been
13 refunded.

*263 - Community and Technical College –
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2017 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Improvements – Total (fund 4908, appropriation 95800)
3 at the close of fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

5 The total amount of this appropriation shall be paid from the
6 sale of the 2009 Series A Community and Technical College
7 Capital Improvement Revenue Bonds and anticipated interest
8 earnings.

*264 - West Virginia University –
West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2017 Org 0463

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,274,340
3	Current Expenses.	13000	4,524,300
4	Repairs and Alterations.	06400	425,000
5	Equipment.	07000	512,000
6	Buildings.	25800	150,000
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 15,935,640

MISCELLANEOUS BOARDS AND COMMISSIONS

*265- Board of Barbers and Cosmetologists –
Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2017 Org 0505

1	Personal Services and Employee		
2	Benefits.	00100	\$ 504,497
3	Current Expenses.	13000	<u>239,969</u>
4	Total.		\$ 744,466

5 The total amount of these appropriations shall be paid from
6 a special revenue fund out of collections made by the board of
7 barbers and cosmetologists as provided by law.

*266- Hospital Finance Authority –
Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2017 Org 0509

1	Personal Services and Employee		
2	Benefits.	00100	\$ 85,981
3	Unclassified.. . . .	09900	1,450
4	Current Expenses.	13000	<u>57,740</u>
5	Total.. . . .		\$ 145,171

6 The total amount of these appropriations shall be paid from
 7 the special revenue fund out of fees and collections as provided
 8 by Article 29A, Chapter 16 of the Code.

*267 - WV State Board of Examiners for Licensed Practical
 Nurses –
 Licensed Practical Nurses*

(WV Code Chapter 30)

Fund 8517 FY 2017 Org 0906

1	Personal Services and Employee		
2	Benefits.	00100	\$ 430,324
3	Current Expenses.	13000	<u>53,133</u>
4	Total.. . . .		\$ 483,457

*268 - WV Board of Examiners for Registered Professional
 Nurses –
 Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2017 Org 0907

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,081,694
3	Current Expenses.	13000	295,339
4	Repairs and Alterations.	06400	3,000
5	Equipment.	07000	19,500

6	Other Assets.....	69000		<u>4,500</u>
7	Total.....		\$	1,404,033

269 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2017 Org 0926

1	Personal Services and Employee			
2	Benefits.	00100	\$	11,807,314
3	Unclassified.	09900		147,643
4	Current Expenses.	13000		2,594,398
5	Repairs and Alterations.	06400		55,000
6	Equipment.	07000		160,000
7	Buildings.	25800		4,500,000
8	PSC Weight Enforcement.	34500		4,405,884
9	Debt Payment/Capital Outlay.	52000		350,000
10	BRIM Premium.	91300		<u>114,609</u>
11	Total.....		\$	24,134,848

12 The total amount of these appropriations shall be paid from
 13 a special revenue fund out of collections for special license fees
 14 from public service corporations as provided by law.

15 The Public Service Commission is authorized to transfer up
 16 to \$500,000 from this fund to meet the expected deficiencies in
 17 the Motor Carrier Division (fund 8625, org 0926) due to the
 18 amendment and reenactment of W.Va. Code §24A-3-1 by
 19 Enrolled House Bill Number 2715, Regular Session, 1997.

*270 - Public Service Commission –
 Gas Pipeline Division –
 Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 284,198
3	Unclassified.	09900	3,851
4	Current Expenses.	13000	93,115
5	Repairs and Alterations.	06400	<u>4,000</u>
6	Total.		\$ 385,164

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of receipts collected for or by the
9 public service commission pursuant to and in the exercise of
10 regulatory authority over pipeline companies as provided by law.

*271 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,243,526
3	Unclassified.	09900	29,233
4	Current Expenses.	13000	577,557
5	Repairs and Alterations.	06400	23,000
6	Equipment.	07000	<u>50,000</u>
7	Total.		\$ 2,923,316

8 The total amount of these appropriations shall be paid from
9 a special revenue fund out of receipts collected for or by the
10 public service commission pursuant to and in the exercise of
11 regulatory authority over motor carriers as provided by law.

*272 - Public Service Commission –
Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 743,372
3	Current Expenses.	13000	276,472
4	Equipment.	07000	10,000
5	BRIM Premium.	91300	<u>4,532</u>
6	Total.		\$ 1,034,376

7 The total amount of these appropriations shall be supported
8 by cash from a special revenue fund out of collections made by
9 the public service commission.

*273 - Real Estate Commission –
Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2017 Org 0927

1	Personal Services and Employee		
2	Benefits.	00100	\$ 582,413
3	Current Expenses.	13000	285,622
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	<u>10,000</u>
6	Total.		\$ 883,035

7 The total amount of these appropriations shall be paid out of
8 collections of license fees as provided by law.

*274 - WV Board of Examiners for Speech-Language
Pathology and Audiology –
Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2017 Org 0930

1	Personal Services and Employee		
2	Benefits.	00100	\$ 73,190

*278 - Board of Medicine –
Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2017 Org 0945

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,047,752
3	Current Expenses. 13000		988,789
4	Repairs and Alterations. 06400		20,000
5	Total.	\$	2,056,541

*279 - West Virginia Enterprise Resource Planning Board –
Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2017 Org 0947

1	Personal Services and Employee		
2	Benefits. 00100	\$	6,713,066
3	Unclassified. 09900		430,000
4	Current Expenses. 13000		42,306,934
5	Repairs and Alterations. 06400		100,000
6	Equipment. 07000		250,000
7	Buildings. 25800		100,000
8	Other Assets. 69000		100,000
9	Total.	\$	50,000,000

*280 - Board of Treasury Investments –
Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2017 Org 0950

1	Personal Services and Employee		
2	Benefits. 00100	\$	715,279

3	Unclassified.	09900	12,667
4	Current Expenses.	13000	488,074
5	BRIM Premium.	91300	50,687
6	Fees of Custodians, Fund Advisors and		
7	Fund Managers.	93800	<u>3,500,000</u>
8	Total.		\$ 4,766,707

9 There is hereby appropriated from this fund, in addition to
10 the above appropriation if needed, an amount of funds necessary
11 for the Board of Treasury Investments to pay the fees and
12 expenses of custodians, fund advisors and fund managers for the
13 Consolidated fund of the State as provided in Article 6C,
14 Chapter 12 of the Code.

15 The total amount of these appropriations shall be paid from
16 the special revenue fund out of fees and collections as provided
17 by law.

18 Total TITLE II, Section 3 — Other Funds
19 (Including claims against the state). . . \$1,910,435,243

1 **Sec. 4. Appropriations from lottery net profits.** — Net
2 profits of the lottery are to be deposited by the director of the
3 lottery to the following accounts in the amounts indicated. The
4 director of the lottery shall prorate each deposit of net profits in
5 the proportion the appropriation for each account bears to the
6 total of the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund
8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the
9 director of the lottery shall make available from the remaining
10 net profits of the lottery any amounts needed to pay debt service
11 for which an appropriation is made for Fund 9065, Fund 4297,
12 Fund 3390, and Fund 3514 and is authorized to transfer any such
13 amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514
14 for that purpose. Upon receipt of reimbursement of amounts so
15 transferred, the director of the lottery shall deposit the

16 reimbursement amounts to the following accounts as required by
17 this section.

*281 - Education, Arts, Sciences and Tourism –
Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2017 Org 0211

	Appro- piation		Lottery Funds
1 Debt Service – Total.	31000	\$	10,000,000

*282 - West Virginia Development Office –
Division of Tourism*

(WV Code Chapter 5B)

Fund 3067 FY 2017 Org 0304

1 Tourism – Telemarketing Center... 46300	\$	82,080
2 WV Film Office..... 49800		341,153
3 Tourism – Advertising (R)..... 61800		3,380,407
4 Tourism – Operations (R). 66200		<u>3,970,510</u>
5 Total.....	\$	7,774,150

6 Any unexpended balances remaining in the appropriations
7 for Tourism – Advertising (fund 3067, appropriation 61800), and
8 Tourism – Operations (fund 3067, appropriation 66200) at the
9 close of the fiscal year 2016 are hereby reappropriated for
10 expenditure during the fiscal year 2017.

283 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,104,327
3	Current Expenses.	13000	23,000
4	Pricketts Fort State Park.	32400	106,560
5	Non-Game Wildlife (R).	52700	367,248
6	State Parks and Recreation		
7	Advertising (R).	61900	<u>494,578</u>
8	Total.		\$ 3,095,713

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 3267, appropriation 09900), Capital
11 Outlay – Parks (fund 3267, appropriation 28800), Non-Game
12 Wildlife (fund 3267, appropriation 52700), and State Parks and
13 Recreation Advertising (fund 3267, appropriation 61900) at the
14 close of the fiscal year 2016 are hereby reappropriated for
15 expenditure during the fiscal year 2017.

284 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2017 Org 0402

1	FBI Checks.	37200	\$ 108,860
2	Vocational Education Equipment		
3	Replacement.	39300	800,000
4	Assessment Program (R).	39600	2,946,059
5	21st Century Technology		
6	Infrastructure Network Tools and		
7	Support (R).	93300	<u>14,151,287</u>
8	Total.		\$ 18,006,206

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 3951, appropriation 09900), Current
11 Expenses (fund 3951, appropriation 13000), Assessment
12 Program (fund 3951, appropriation 39600), and 21st Century
13 Technology Infrastructure Network Tools and Support (fund
14 3951, appropriation 93300) at the close of the fiscal year 2016

15 are hereby reappropriated for expenditure during the fiscal year
16 2017.

*285 - State Department of Education –
School Building Authority –
Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2017 Org 0402

1	Debt Service – Total.	31000	\$	7,507,700
2	Directed Transfer.	70000		<u>10,492,300</u>
3	Total.		\$	18,000,000

4 The School Building Authority shall have the authority to
5 transfer between the above appropriations in accordance with
6 W.Va. Code §29-22-18.

*286 - Department of Education and the Arts –
Office of the Secretary –
Control Account –
Lottery Education Fund*

(WV Code Chapter 5F)

Fund 3508 FY 2017 Org 0431

1	Unclassified (R).	09900	\$	11,864
2	Current Expenses.	13000		108,136
3	Commission for National and			
4	Community Service.	19300		350,228
5	Arts Programs (R).	50000		81,510
6	College Readiness.	57900		154,906
7	Statewide STEM 21st Century			
8	Academy.	89700		130,000
9	Literacy Project (R).	89900		<u>350,000</u>
10	Total.		\$	1,186,644

11 Any unexpended balances remaining in the appropriations
 12 for Unclassified (fund 3508, appropriation 09900), Governor’s
 13 Honors Academy (fund 3508, appropriation 47800), Arts
 14 Programs (fund 3508, appropriation 50000), and Literacy Project
 15 (fund 3508, appropriation 89900) at the close of fiscal year 2016
 16 are hereby reappropriated for expenditure during the fiscal year
 17 2017.

*287 - Division of Culture and History –
 Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2017 Org 0432

1	Huntington Symphony.....	02700	\$	82,025
2	Preservation West Virginia (R)...	09200		652,799
3	Fairs and Festivals (R).....	12200		1,853,663
4	Archeological Curation/Capital			
5	Improvements (R).....	24600		41,770
6	Historic Preservation Grants (R)...	31100		368,428
7	West Virginia Public Theater.	31200		166,693
8	George Tyler Moore Center for the			
9	Study of the Civil War.	39700		51,932
10	Greenbrier Valley Theater.....	42300		138,254
11	Theater Arts of West Virginia.	46400		125,000
12	Marshall Artists Series.....	51800		50,008
13	Grants for Competitive Arts			
14	Program (R).....	62400		731,000
15	West Virginia State Fair.	65700		43,391
16	Save the Music.....	68000		30,000
17	Contemporary American Theater			
18	Festival.	81100		79,558
19	Independence Hall.....	81200		37,885
20	Mountain State Forest Festival. ...	86400		53,038
21	WV Symphony.....	90700		82,025

22	Wheeling Symphony.	90800	82,025
23	Appalachian Children's Chorus.	91600	<u>75,770</u>
24	Total.		\$ 4,745,264

25 Any unexpended balances remaining in the appropriations
 26 for Preservation West Virginia (fund 3534, appropriation
 27 09200), Fairs and Festivals (fund 3534, appropriation 12200),
 28 Archeological Curation/Capital Improvements (fund 3534,
 29 appropriation 24600), Historic Preservation Grants (fund 3534,
 30 appropriation 31100), Grants for Competitive Arts Program
 31 (fund 3534, appropriation 62400), and Project ACCESS (fund
 32 3534, appropriation 86500) at the close of the fiscal year 2016
 33 are hereby reappropriated for expenditure during the fiscal year
 34 2017.

35 From the above appropriation for Preservation West Virginia
 36 (fund 3534, appropriation 09200) funding shall be provided to
 37 the African-American Heritage Family Tree Museum (Fayette)
 38 \$3,713, Aracoma Story (Logan) \$41,254, Arts Monongahela
 39 (Monongalia) \$16,502, Barbour County Arts and Humanities
 40 Council \$1,238, Beckley Main Street (Raleigh) \$4,125, Buffalo
 41 Creek Memorial (Logan) \$4,125, Carnegie Hall (Greenbrier)
 42 \$65,138, Ceredo Historical Society (Wayne) \$1,650, Ceredo
 43 Kenova Railroad Museum (Wayne) \$1,650, Ceredo Museum
 44 (Wayne) \$1,000, Children's Theatre of Charleston (Kanawha)
 45 \$4,343, Chuck Mathena Center (Mercer) \$86,850, Collis P.
 46 Huntington Railroad Historical Society (Cabell) \$8,251, Country
 47 Music Hall of Fame and Museum (Marion) \$5,776, First Stage
 48 Children's Theater Company \$1,650, Flannigan Murrell House
 49 (Summers) \$5,251, Fort Ashby Fort (Mineral) \$1,238, Fort New
 50 Salem (Harrison) \$3,053, Fort Randolph (Mason) \$4,125,
 51 General Adam Stephen Memorial Foundation (Berkeley)
 52 \$15,286, Grafton Mother's Day Shrine Committee (Taylor)
 53 \$7,013, Hardy County Tour and Crafts Association \$16,502,
 54 Heartwood in the Hills (Calhoun) \$7,000, Heritage Farm
 55 Museum & Village (Cabell) \$41,254, Historic Fayette Theater

56 (Fayette) \$4,538, Historic Middleway Conservancy (Jefferson)
57 \$825, Jefferson County Black History Preservation Society
58 \$4,125, Jefferson County Historical Landmark Commission
59 \$6,601, Maddie Carroll House (Cabell) \$6,188, Marshall County
60 Historical Society \$7,013, McCoy Theater (Hardy) \$16,502,
61 Morgantown Theater Company (Monongalia) \$16,502,
62 Mountaineer Boys' State (Lewis) \$8,251, Nicholas Old Main
63 Foundation (Nicholas) \$1,650, Norman Dillon Farm Museum
64 (Berkeley) \$8,251, Old Opera House Theater Company
65 (Jefferson) \$12,376, Parkersburg Arts Center (Wood) \$16,502,
66 Pocahontas Historic Opera House \$4,950, Raleigh County All
67 Wars Museum \$8,251, Rhododendron Girl's State (Ohio)
68 \$8,251, Roane County 4-H and FFA Youth Livestock Program
69 \$4,125, Scottish Heritage Society/N. Central WV (Harrison)
70 \$4,125, Society for the Preservation of McGrew House (Preston)
71 \$2,888, Southern West Virginia Veterans' Museum \$4,713,
72 Summers County Historic Landmark Commission \$4,125, Those
73 Who Served War Museum (Mercer) \$3,300, Three Rivers Avian
74 Center (Summers) \$7,376, Tug Valley Arts Council (Mingo)
75 \$4,125, Tug Valley Chamber of Commerce Coal House (Mingo)
76 \$1,650, Tunnelton Historical Society (Preston) \$1,650, Veterans
77 Committee for Civic Improvement of Huntington (Wayne)
78 \$4,125, West Virginia Museum of Glass (Lewis) \$4,125, West
79 Virginia Music Hall of Fame (Kanawha) \$28,878, YMCA Camp
80 Horseshoe (Tucker) \$82,508, Youth Museum of Southern West
81 Virginia (Raleigh) \$9,901, Z.D. Ramsdell House (Wayne)
82 \$1,000.

83 From the above appropriation for Fairs and Festivals (fund
84 3534, appropriation 12200) funding shall be provided to A
85 Princeton 4th (Mercer) \$2,500, African-American Cultural
86 Heritage Festival (Jefferson) \$4,125, Alderson 4th of July
87 Celebration (Greenbrier) \$4,125, Allegheny Echo (Pocahontas)
88 \$6,189, Alpine Festival/Leaf Peepers Festival (Tucker) \$9,282,
89 American Civil War (Grant) \$4,343, American Legion Post 8
90 Veterans Day Parade (McDowell) \$1,737, Angus Beef and

91 Cattle Show (Lewis) \$1,238, Annual Birch River Days
92 (Nicholas) \$1,800, Annual Don Redman Heritage Concert &
93 Awards (Jefferson) \$1,303, Annual Ruddle Park Jamboree
94 (Pendleton) \$6,514, Antique Market Fair (Lewis) \$1,650, Apollo
95 Theater-Summer Program (Berkeley) \$1,650, Apple Butter
96 Festival (Morgan) \$4,950, Arkansaw Homemaker's Heritage
97 Weekend (Hardy) \$2,888, Armed Forces Day-South Charleston
98 (Kanawha) \$2,475, Arthurdale Heritage New Deal Festival
99 (Preston) \$4,125, Athens Town Fair (Mercer) \$1,650, Augusta
100 Fair (Randolph) \$4,125, Autumn Harvest Fest (Monroe) \$3,400,
101 Barbour County Fair \$20,627, Barboursville Octoberfest
102 (Cabell) \$4,125, Bass Festival (Pleasants) \$1,527, Battelle
103 District Fair (Monongalia) \$4,125, Battle of Dry Creek
104 (Greenbrier) \$1,238, Battle of Point Pleasant Memorial
105 Committee (Mason) \$4,125, Belle Town Fair (Kanawha) \$3,713,
106 Belleville Homecoming (Wood) \$16,502, Bergoo Down Home
107 Days (Webster) \$2,063, Black Bear 4K Mountain Bike Race
108 (Kanawha) \$1,025, Black Heritage Festival (Harrison) \$4,950,
109 Black Walnut Festival (Roane) \$8,251, Blast from the Past
110 (Upshur) \$2,000, Blue-Gray Reunion (Barbour) \$2,888, Boone
111 County Fair \$8,251, Boone County Labor Day Celebration
112 \$3,300, Bradshaw Fall Festival (McDowell) \$1,650,
113 Brandonville Heritage Day (Preston) \$1,455, Braxton County
114 Fair \$9,489, Braxton County Monster Fest / West Virginia
115 Autumn Festival \$2,063, Brooke County Fair \$2,888, Bruceton
116 Mills Good Neighbor Days (Preston) \$1,650, Buckwheat
117 Festival (Preston) \$7,014, Buffalo 4th of July Celebration
118 (Putnam) \$550, Buffalo October Fest (Putnam) \$4,500,
119 Burlington Apple Harvest Festival (Mineral) \$24,752,
120 Burlington Pumpkin Harvest Festival (Raleigh) \$4,125,
121 Burnsville Harvest Festival (Braxton) \$1,954, Cabell County
122 Fair \$8,251, Calhoun County Wood Festival \$1,650, Campbell's
123 Creek Community Fair (Kanawha) \$2,063, Cape Coalwood
124 Festival Association (McDowell) \$2,063, Capon Bridge
125 Founders Day Festival (Hampshire) \$1,650, Capon Springs
126 Ruritan 4th of July (Hampshire) \$1,025, Cass Homecoming

127 (Pocahontas) \$1,650, Cedarville Town Festival (Gilmer) \$1,025,
128 Concerts in the Park (Wood) \$3,300, Celebration of America
129 (Monongalia) \$4,950, Ceredo Freedom Festival (Wayne) \$1,048,
130 Chapmanville Apple Butter Festival (Logan) \$1,025,
131 Chapmanville Fire Department 4th of July (Logan) \$2,475,
132 Charles Town Christmas Festival (Jefferson) \$4,125, Charles
133 Town Heritage Festival (Jefferson) \$4,125, Cherry River
134 Festival (Nicholas) \$5,363, Chester Fireworks (Hancock)
135 \$1,238, Chester 4th of July Festivities (Hancock) \$4,125, Chief
136 Logan State Park-Civil War Celebration (Logan) \$6,601,
137 Chilifest West Virginia State Chili Championship (Cabell)
138 \$2,171, Christmas In Our Town (Marion) \$4,343, Christmas in
139 Shepherdstown (Jefferson) \$3,300, Christmas in the Park
140 (Brooke) \$4,125, Christmas in the Park (Logan) \$20,627, City of
141 Dunbar Critter Dinner (Kanawha) \$8,251, City of Logan Polar
142 Express (Logan) \$6,189, City of New Martinsville Festival of
143 Memories (Wetzel) \$9,076, Clay County Golden Delicious
144 Apple Festival \$5,776, Clay District Fair (Monongalia) \$1,500,
145 Coal Field Jamboree (Logan) \$28,878, Coalton Days Fair
146 (Randolph) \$5,776, Country Roads Festival (Fayette) \$1,650,
147 Cowen Railroad Festival (Webster) \$2,888, Craigsville Fall
148 Festival (Nicholas) \$2,888, Cruise into Princeton (Mercer)
149 \$3,000, Culturefest World Music & Arts Festival (Mercer)
150 \$6,514, Delbarton Homecoming (Mingo) \$2,888, Doddridge
151 County Fair \$5,776, Dorcas Ice Cream Social (Grant) \$4,950,
152 Durbin Days (Pocahontas) \$4,125, Elbert/Filbert Reunion
153 Festival (McDowell) \$1,238, Elkins Randolph County 4th of
154 July Car Show (Randolph) \$1,650, Fairview 4th of July
155 Celebration (Marion) \$1,025, Farm Safety Day (Preston) \$1,650,
156 Farmer's Day Festival (Monroe) \$3,237, Farmers' Day Parade
157 (Wyoming) \$1,000, Fenwick Mountain Old Time Community
158 Festival (Nicholas) \$4,000, FestivALL Charleston (Kanawha)
159 \$16,502, Flatwoods Days (Braxton) \$1,048, Flemington Day
160 Fair and Festival (Taylor) \$2,888, Follansbee Community Days
161 (Brooke) \$6,807, Fort Gay Mountain Heritage Days (Wayne)
162 \$4,125, Fort Henry Days (Ohio) \$4,373, Fort Henry Living

163 History (Ohio) \$2,171, Fort New Salem Spirit of Christmas
164 Festival (Harrison) \$3,378, Frankford Autumnfest (Greenbrier)
165 \$4,125, Franklin Fishing Derby (Pendleton) \$6,189, Freshwater
166 Folk Festival (Greenbrier) \$4,125, Friends Auxiliary of W.R.
167 Sharpe Hospital (Lewis) \$4,125, Frontier Days (Harrison)
168 \$2,475, Frontier Fest/Canaan Valley (Taylor) \$4,125, Fund for
169 the Arts-Wine & All that Jazz Festival (Kanawha) \$2,063,
170 Gassaway Days Celebration (Braxton) \$4,125, Gilbert
171 Elementary Fall Blast (Mingo) \$3,039, Gilbert Kiwanis Harvest
172 Festival (Mingo) \$3,300, Gilbert Spring Fling (Mingo) \$4,993,
173 Gilmer County Farm Show \$3,300, Grant County Arts Council
174 \$1,650, Grape Stomping Wine Festival (Nicholas) \$1,650, Great
175 Greenbrier River Race (Pocahontas) \$8,251, Greater Quinwood
176 Days (Greenbrier) \$1,086, Guyandotte Civil War Days (Cabell)
177 \$8,251, Hamlin 4th of July Celebration (Lincoln) \$4,125,
178 Hampshire Civil War Celebration Days (Hampshire) \$1,025,
179 Hampshire County 4th of July Celebration \$16,502, Hampshire
180 County Fair \$6,948, Hampshire Heritage Days (Hampshire)
181 \$3,300, Hancock County Oldtime Fair \$4,125, Hardy County
182 Commission - 4th of July \$8,251, Hatfield McCoy Matewan
183 Reunion Festival (Mingo) \$17,125, Hatfield McCoy Trail
184 National ATV and Dirt Bike Weekend (Wyoming) \$4,125,
185 Heat'n the Hills Chilifest (Lincoln) \$3,474, Heritage Craft
186 Festival (Monroe) \$1,450, Heritage Days Festival (Roane)
187 \$1,238, Hilltop Festival (Cabell) \$1,025, Hilltop Festival of
188 Lights (McDowell) \$1,650, Hinton Railroad Days (Summers)
189 \$6,038, Holly River Festival (Webster) \$1,238, Hometown
190 Mountain Heritage Festival (Fayette) \$3,378, Hundred 4th of
191 July (Wetzel) \$5,982, Hundred American Legion Earl Kiger Post
192 Bluegrass Festival (Wetzel) \$1,650, Hurricane 4th of July
193 Celebration (Putnam) \$4,125, Jaeger Town Fair (McDowell)
194 \$1,238, Irish Heritage Festival of West Virginia (Raleigh)
195 \$4,125, Irish Spring Festival (Lewis) \$1,025, Italian Heritage
196 Festival-Clarksburg (Harrison) \$24,752, Jackson County Fair
197 \$4,125, Jamboree (Pocahontas) \$4,125, Jane Lew Arts and
198 Crafts Fair (Lewis) \$1,025, Jefferson County Fair Association

199 \$20,627, Jersey Mountain Ruritan Pioneer Days (Hampshire)
200 \$1,025, John Henry Days Festival (Monroe) \$6,525, Johnnie
201 Johnson Blues and Jazz Festival (Marion) \$4,125, Johnstown
202 Community Fair (Harrison) \$2,063, Junior Heifer Preview Show
203 (Lewis) \$1,650, Kanawha Coal Riverfest-St. Albans 4th of July
204 Festival (Kanawha) \$4,125, Keeper of the Mountains-Kayford
205 (Kanawha) \$2,063, Kenova Autumn Festival (Wayne) \$6,080,
206 Kermit Fall Festival (Mingo) \$2,475, Keystone Reunion Gala
207 (McDowell) \$2,171, King Coal Festival (Mingo) \$4,125,
208 Kingwood Downtown Street Fair and Heritage Days (Preston)
209 \$1,650, L.Z. Rainelle West Virginia Veterans Reunion
210 (Greenbrier) \$4,125, Lady of Agriculture (Preston) \$1,025, Larry
211 Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo)
212 \$8,251, Larry Joe Harless Community Center Spring Middle
213 School Event (Mingo) \$4,125, Last Blast of Summer
214 (McDowell) \$4,125, Lewis County Fair Association \$2,888,
215 Lewisburg Shanghai (Greenbrier) \$1,650, Lincoln County Fall
216 Festival \$6,601, Lincoln County Winterfest \$4,125, Lindsie
217 Veterans' Day Parade \$1,000, Little Levels Heritage Festival
218 (Pocahontas) \$1,650, Lost Creek Community Festival (Harrison)
219 \$5,776, Main Street Arts Festival (Upshur) \$4,343, Main Street
220 Martinsburg Chocolate Fest and Book Fair (Berkeley) \$3,908,
221 Mannington District Fair (Marion) \$4,950, Maple Syrup Festival
222 (Randolph) \$1,025, Marion County FFA Farm Fest \$2,063,
223 Marmet Labor Day Celebration (Kanawha) \$4,275, Marshall
224 County Antique Power Show \$2,063, Marshall County Fair
225 \$6,189, Mason County Fair \$4,125, Mason Dixon Festival
226 (Monongalia) \$5,776, Matewan Massacre Reenactment (Mingo)
227 \$6,950, Matewan-Magnolia Fair (Mingo) \$22,128,
228 McARTS-McDowell County \$16,502, McDowell County Fair
229 \$2,063, McGrew House History Day (Preston) \$1,650,
230 McNeill's Rangers (Mineral) \$6,601, Meadow Bridge
231 Hometown Festival (Fayette) \$1,032, Meadow River Days
232 Festival (Greenbrier) \$2,475, Mercer Bluestone Valley Fair
233 (Mercer) \$1,650, Mercer County Fair \$1,650, Mercer County
234 Heritage Festival \$4,825, Mid Ohio Valley Antique Engine

235 Festival (Wood) \$2,475, Milton Christmas in the Park (Cabell)
236 \$2,063, Milton 4th of July Celebration (Cabell) \$2,063, Mineral
237 County Fair \$1,444, Mineral County Veterans Day Parade
238 \$1,238, Molasses Festival (Calhoun) \$1,650, Monongahfest
239 (Marion) \$5,211, Moon Over Mountwood Fishing Festival
240 (Wood) \$2,475, Morgan County Fair-History Wagon \$1,238,
241 Moundsville Bass Festival (Marshall) \$3,300, Moundsville July
242 4th Celebration (Marshall) \$4,125, Mount Liberty Fall Festival
243 (Barbour) \$2,063, Mountain Fest (Monongalia) \$16,502,
244 Mountain Festival (Mercer) \$3,816, Mountain Heritage Arts and
245 Crafts Festival (Jefferson) \$4,125, Mountain Music Festival
246 (McDowell) \$2,063, Mountain State Apple Harvest Festival
247 (Berkeley) \$6,189, Mountain State Arts & Crafts Fair Cedar
248 Lakes (Jackson) \$37,128, Mountaineer Hot Air Balloon Festival
249 (Monongalia) \$3,300, Mullens Dogwood Festival (Wyoming)
250 \$5,776, Multi-Cultural Festival of West Virginia (Kanawha)
251 \$16,502, Music and Barbecue - Banks District VFD (Upshur)
252 \$1,776, New Cumberland Christmas Parade (Hancock) \$2,475,
253 New Cumberland 4th of July (Hancock) \$4,125, New River
254 Bridge Day Festival (Fayette) \$33,003, Newburg Volunteer
255 Fireman's Field Day (Preston) \$1,025, Nicholas County Fair
256 \$4,125, Nicholas County Potato Festival \$2,888, Oak Leaf
257 Festival (Fayette) \$8,685, Oceana Heritage Festival (Wyoming)
258 \$4,950, Oglebay City Park - Festival of Lights (Ohio) \$66,006,
259 Oglebay Festival (Ohio) \$8,251, Ohio County Country Fair
260 \$7,426, Ohio River Fest (Jackson) \$6,000, Ohio Valley Beef
261 Association (Wood) \$2,063, Ohio Valley Black Heritage
262 Festival (Ohio) \$4,538, Old Central City Fair (Cabell) \$4,125,
263 Old Century City Fair (Barbour) \$1,737, Old Tyme Christmas
264 (Jefferson) \$1,980, Paden City Labor Day Festival (Wetzel)
265 \$5,363, Parkersburg Homecoming (Wood) \$12,159, Patty Fest
266 (Monongalia) \$1,650, Paw Paw District Fair (Marion) \$2,888,
267 Pax Reunion Committee (Fayette) \$4,125, Pendleton County 4-H
268 Weekend \$1,650, Pendleton County Committee for Arts
269 \$12,376, Pendleton County Fair \$8,685, Pennsboro Country
270 Road Festival (Ritchie) \$1,650, Petersburg 4th of July

271 Celebration (Grant) \$16,502, Petersburg HS Celebration (Grant)
272 \$8,251, Piedmont-Annual Back Street Festival (Mineral) \$3,300,
273 Pinch Reunion (Kanawha) \$1,238, Pine Bluff Fall Festival
274 (Harrison) \$3,300, Pine Grove 4th of July Festival (Wetzel)
275 \$5,776, Pineville Festival (Wyoming) \$4,950, Pleasants County
276 Agriculture Youth Fair \$4,125, Poca Heritage Days (Putnam)
277 \$2,475, Pocahontas County Pioneer Days \$5,776, Point Pleasant
278 Stern Wheel Regatta (Mason) \$4,125, Pratt Fall Festival
279 (Kanawha) \$2,063, Princeton Autumnfest (Mercer) \$2,171,
280 Princeton Street Fair (Mercer) \$4,125, Putnam County Fair
281 \$4,125, Quartets on Parade (Hardy) \$3,300, Rainelle Fall
282 Festival (Greenbrier) \$4,343, Rand Community Center Festival
283 (Kanawha) \$2,063, Randolph County Community Arts Council
284 \$2,475, Randolph County Fair \$5,776, Randolph County Ramp
285 and Rails \$1,650, Ranson Christmas Festival (Jefferson) \$4,125,
286 Ranson Festival (Jefferson) \$4,125, Renick Liberty Festival
287 (Greenbrier) \$1,025, Ripley 4th of July (Jackson) \$12,376,
288 Ritchie County Fair and Exposition \$4,125, Ritchie County
289 Pioneer Days \$1,025, River City Festival (Preston) \$1,025,
290 Roane County Agriculture Field Day \$2,475, Rock the Park
291 (Kanawha) \$4,500, Rocket Boys Festival (Raleigh) \$2,375,
292 Romney Heritage Days (Hampshire) \$2,606, Ronceverte River
293 Festival (Greenbrier) \$4,125, Rowlesburg Labor Day Festival
294 (Preston) \$1,025, Rupert Country Fling (Greenbrier) \$2,475,
295 Saint Spyridon Greek Festival (Harrison) \$2,063, Salem Apple
296 Butter Festival (Harrison) \$3,300, Sistersville 4th of July (Tyler)
297 \$4,538, Skirmish on the River (Mingo) \$1,737, Smoke on the
298 Water (Wetzel) \$2,475, South Charleston Summerfest
299 (Kanawha) \$8,251, Southern Wayne County Fall Festival
300 \$1,025, Spirit of Grafton Celebration (Taylor) \$8,251,
301 Springfield Peach Festival (Hampshire) \$1,026, St. Albans City
302 of Lights - December (Kanawha) \$4,125, Sternwheel Festival
303 (Wood) \$2,475, Stoco Reunion (Raleigh) \$2,063, Stonewall
304 Jackson Heritage Arts & Crafts Jubilee (Lewis) \$9,076,
305 Stonewall Jackson's Roundhouse Raid (Berkeley) \$10,000,
306 Storytelling Festival (Lewis) \$550, Strawberry Festival (Upshur)

307 \$24,752, Sylvester Big Coal River Festival \$2,700, Tacy Fair
308 (Barbour) \$1,025, Taste of Parkersburg (Wood) \$4,125, Taylor
309 County Fair \$4,538, Terra Alta VFD 4th of July Celebration
310 (Preston) \$1,025, The Gathering at Sweet Creek (Wood) \$2,475,
311 Three Rivers Coal Festival (Marion) \$6,394, Thunder on the
312 Tygart - Mothers' Day Celebration (Taylor) \$12,376, Town of
313 Delbarton 4th of July Celebration (Mingo) \$2,475, Town of
314 Fayetteville Heritage Festival (Fayette) \$6,189, Town of
315 Matoaka Hog Roast (Mercer) \$1,025, Town of Rivesville 4th of
316 July Festival (Marion) \$4,343, Town of Winfield - Putnam
317 County Homecoming \$4,500, St. Albans Train Fest (Kanawha)
318 \$8,500, Treasure Mountain Festival (Pendleton) \$20,627,
319 Tri-County Fair (Grant) \$31,318, Tucker County Arts Festival
320 and Celebration \$14,851, Tucker County Fair \$3,919, Tucker
321 County Health Fair \$1,650, Tunnelton Depot Days (Preston)
322 \$1,025, Tunnelton Volunteer Fire Department Festival (Preston)
323 \$1,025, Turkey Festival (Hardy) \$2,475, Tyler County Fair
324 \$4,290, Tyler County 4th of July \$550, Tyler County
325 OctoberFest \$1,000, Union Community Irish Festival (Barbour)
326 \$975, Uniquely West Virginia Festival (Morgan) \$1,650, Upper
327 Kanawha Valley Oktoberfest (Kanawha) \$2,063, Upper Ohio
328 Valley Italian Festival (Ohio) \$9,901, Upshur County Youth
329 Livestock Show \$2,000, Valley District Fair (Preston) \$2,888,
330 Veterans Welcome Home Celebration (Cabell) \$1,303, Vietnam
331 Veterans of America # 949 Christmas Party (Cabell) \$1,025,
332 Volcano Days at Mountwood Park (Wood) \$4,125, War
333 Homecoming Fall Festival (McDowell) \$1,238, Wardensville
334 Fall Festival (Hardy) \$4,125, Wayne County Fair \$4,125,
335 Wayne County Fall Festival \$4,125, Webster County Fair
336 \$5,000, Webster County Wood Chopping Festival \$12,376,
337 Webster Wild Water Weekend \$1,650, Weirton July 4th
338 Celebration (Hancock) \$16,502, Welcome Home Family Day
339 (Wayne) \$2,640, Wellsburg 4th of July Celebration (Brooke)
340 \$6,189, Wellsburg Apple Festival of Brooke County \$4,125,
341 West Virginia Blackberry Festival (Harrison) \$4,125, West
342 Virginia Chestnut Festival (Preston) \$1,025, West Virginia Coal

343 Festival (Boone) \$8,251, West Virginia Coal Show (Mercer)
 344 \$2,171, West Virginia Dairy Cattle Show (Lewis) \$8,251, West
 345 Virginia Dandelion Festival (Greenbrier) \$4,125, West Virginia
 346 Day at the Railroad Museum (Mercer) \$2,500, West Virginia
 347 Fair and Exposition (Wood) \$6,684, West Virginia Fireman’s
 348 Rodeo (Fayette) \$2,063, West Virginia Oil and Gas Festival
 349 (Tyler) \$9,076, West Virginia Peach Festival (Hampshire)
 350 \$4,500, West Virginia Polled Hereford Association (Braxton)
 351 \$1,238, West Virginia Poultry Festival (Hardy) \$4,125, West
 352 Virginia Pumpkin Festival (Cabell) \$8,251, West Virginia State
 353 Folk Festival (Gilmer) \$4,125, West Virginia Water Festival -
 354 City of Hinton (Summers) \$12,701, Weston VFD 4th of July
 355 Firemen Festival (Lewis) \$1,650, Wetzel County Autumnfest
 356 \$4,538, Wetzel County Town and Country Days \$14,026,
 357 Wheeling Celtic Festival (Ohio) \$1,650, Wheeling City of Lights
 358 (Ohio) \$6,601, Wheeling Sternwheel Regatta (Ohio) \$8,251,
 359 Wheeling Vintage Raceboat Regatta (Ohio) \$16,502, Whipple
 360 Community Action (Fayette) \$2,063, Wileyville Homecoming
 361 (Wetzel) \$3,300, Wine Festival and Mountain Music Event
 362 (Harrison) \$4,125, Winter Festival of the Waters (Berkeley)
 363 \$4,125, Wirt County Fair \$2,063, Wirt County Pioneer Days
 364 \$1,650, Wyoming County Civil War Days \$1,800, Youth
 365 Stockman Beef Expo (Lewis) \$1,650.

366 Any Fairs & Festivals awards shall be funded in addition to,
 367 and not in lieu of, individual grant allocations derived from the
 368 Arts Council and the Cultural Grant Program allocations.

*288 - Library Commission –
 Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2017 Org 0433

1	Books and Films.	17900	\$	360,784
2	Services to Libraries.	18000		550,000

3	Grants to Public Libraries.	18200		9,439,571
4	Digital Resources.	30900		219,992
5	Infomine Network.	88400		858,315
6	Total.		\$	11,428,662

7 Any unexpended balance remaining in the appropriation for
 8 Libraries – Special Projects (fund 3559, appropriation 62500) at
 9 the close of fiscal year 2016 is hereby reappropriated for
 10 expenditure during the fiscal year 2017.

*289 - Bureau of Senior Services –
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2017 Org 0508

1	Personal Services and Employee			
2	Benefits.	00100	\$	195,001
3	Current Expenses.	13000		332,095
4	Repairs and Alterations.	06400		1,000
5	Local Programs Service			
6	Delivery Costs.	20000		2,435,250
7	Silver Haired Legislature.	20200		18,500
8	Transfer to Division of			
9	Human Services for Health Care			
10	and Title XIX Waiver for			
11	Senior Citizens.	53900		20,452,954
12	Roger Tompkins Alzheimer's			
13	Respite Care.	64300		2,297,036
14	WV Alzheimer's Hotline.	72400		45,000
15	Regional Aged and Disabled			
16	Resource Center.	76700		425,000
17	Senior Services Medicaid			
18	Transfer.	87100		8,670,000
19	Legislative Initiatives for the			
20	Elderly.	90400		9,671,239

21	Long Term Care Ombudsman.	90500		297,226
22	BRIM Premium.	91300		6,500
23	In-Home Services and Nutrition for			
24	Senior Citizens.	91700		<u>4,320,941</u>
25	Total.		\$	49,167,742

26 Any unexpended balance remaining in the appropriation for
 27 Senior Citizen Centers and Programs (fund 5405, appropriation
 28 46200) at the close of the fiscal year 2016 is hereby
 29 reappropriated for expenditure during the fiscal year 2017.

30 Included in the above appropriation for Current Expenses
 31 (fund 5405, appropriation 13000), is funding to support an
 32 in-home direct care workforce registry.

33 The above appropriation for Transfer to Division of Human
 34 Services for Health Care and Title XIX Waiver for Senior
 35 Citizens (appropriation 53900) along with the federal moneys
 36 generated thereby shall be used for reimbursement for services
 37 provided under the program.

*290 - Higher Education Policy Commission –
 Lottery Education –
 Higher Education Policy Commission –
 Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2017 Org 0441

1	RHI Program and Site			
2	Support (R).	03600	\$	1,912,491
3	RHI Program and Site Support –			
4	RHEP Program			
5	Administration (R).	03700		146,653
6	RHI Program and Site Support –			
7	Grad Med Ed and			
8	Fiscal Oversight (R).	03800		87,110

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9	Minority Doctoral Fellowship (R)..	16600	129,604
10	Health Sciences Scholarship (R). . .	17600	220,690
11	Vice Chancellor for Health Sciences –		
12	Rural Health Residency		
13	Program (R).....	60100	62,725
14	WV Engineering, Science, and		
15	Technology Scholarship		
16	Program.....	86800	<u>452,831</u>
17	Total.....		\$ 3,012,104

18 Any unexpended balances remaining in the appropriations
 19 for RHI Program and Site Support (fund 4925, appropriation
 20 03600), RHI Program and Site Support – RHEP Program
 21 Administration (fund 4925, appropriation 03700), RHI Program
 22 and Site Support – Grad Med Ed and Fiscal Oversight (fund
 23 4925, appropriation 03800), Minority Doctoral Fellowship (fund
 24 4925, appropriation 16600), Health Sciences Scholarship (fund
 25 4925, appropriation 17600), and Vice Chancellor for Health
 26 Sciences – Rural Health Residency Program (fund 4925,
 27 appropriation 60100) at the close of fiscal year 2016 are hereby
 28 reappropriated for expenditure during the fiscal year 2017.

29 The above appropriation for WV Engineering, Science, and
 30 Technology Scholarship Program (appropriation 86800) shall be
 31 transferred to the West Virginia Engineering, Science and
 32 Technology Scholarship Fund (fund 4928, org 0441) established
 33 by W.Va. Code §18C-6-1.

*291 - Community and Technical College –
 Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2017 Org 0442

1	Debt Service – Total.	31000	\$ 5,000,000
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2 Any unexpended balance remaining in the appropriation for
 3 Capital Outlay and Improvements – Total (fund 4908,
 4 appropriation 84700) at the close of fiscal year 2016 is hereby
 5 reappropriated for expenditure during the fiscal year 2017.

*292 - Higher Education Policy Commission –
 Lottery Education –
 West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2017 Org 0463

1	WVU Health Sciences –		
2	RHI Program and Site		
3	Support (R).	03500	\$ 1,158,437
4	MA Public Health Program and		
5	Health Science		
6	Technology (R).	62300	54,798
7	Health Sciences Career		
8	Opportunities Program (R). . .	86900	334,296
9	HSTA Program (R).	87000	1,705,198
10	Center for Excellence in		
11	Disabilities (R).	96700	<u>306,019</u>
12	Total..		\$ 3,558,748

13 Any unexpended balances remaining in the appropriations
 14 for WVU Health Sciences – RHI Program and Site Support
 15 (fund 4185, appropriation 03500), MA Public Health Program
 16 and Health Science Technology (fund 4185, appropriation
 17 62300), Health Sciences Career Opportunities Program (fund
 18 4185, appropriation 86900), HSTA Program (fund 4185,
 19 appropriation 87000), and Center for Excellence in Disabilities
 20 (fund 4185, appropriation 96700) at the close of fiscal year 2016
 21 are hereby reappropriated for expenditure during the fiscal year
 22 2017.

293 - Higher Education Policy Commission –
Lottery Education –
Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2017 Org 0471

1	Marshall Medical School –		
2	RHI Program and Site		
3	Support (R).	03300	\$ 414,486
4	Vice Chancellor for Health Sciences –		
5	Rural Health Residency		
6	Program (R).....	60100	<u>171,400</u>
7	Total..		\$ 585,886

8 Any unexpended balances remaining in the appropriations
9 for Marshall Medical School – RHI Program and Site Support
10 (fund 4896, appropriation 03300) and Vice Chancellor for
11 Health Sciences – Rural Health Residency Program (fund 4896,
12 appropriation 60100) at the close of fiscal year 2016 are hereby
13 reappropriated for expenditure during the fiscal year 2017.

14	Total TITLE II, Section 4 —		
15	Lottery Revenue.		<u>\$ 135,561,119</u>

1 **Sec. 5. Appropriations from state excess lottery revenue**
2 **fund.** — In accordance with W.Va. Code §29-22-18a,
3 §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the
4 following appropriations shall be deposited and disbursed by the
5 Director of the Lottery to the following accounts in this section
6 in the amounts indicated.

7 After first funding the appropriations required by W.Va.
8 Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and
9 §29-25-22b, the Director of the Lottery shall provide funding
10 from the State Excess Lottery Revenue Fund for the remaining

11 appropriations in this section to the extent that funds are
 12 available. In the event that revenues to the State Excess Lottery
 13 Revenue Fund are sufficient to meet all the appropriations
 14 required made pursuant to this section, then the Director of the
 15 Lottery shall then provide the funds available for fund 5365,
 16 appropriation 18900.

*294 - Lottery Commission –
 Refundable Credit*

Fund 7207 FY 2017 Org 0705

			Excess Lottery Funds
	Appro- piation	\$	
1	Directed Transfer.	70000	\$ 10,000,000

2 The above appropriation shall be transferred to the General
 3 Revenue Fund to provide reimbursement for the refundable
 4 credit allowable under W.Va. Code §11-21-21. The amount of
 5 the required transfer shall be determined solely by the state tax
 6 commissioner and shall be completed by the director of the
 7 lottery upon the commissioner’s request.

*295 - Lottery Commission –
 General Purpose Account*

Fund 7206 FY 2017 Org 0705

1	General Revenue Fund – Transfer. .	70011	\$ 65,000,000
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2 The above appropriation shall be transferred to the General
 3 Revenue Fund as determined by the director of the lottery in
 4 accordance with W.Va. Code §29-22-18a.

*296 - Higher Education Policy Commission –
 Education Improvement Fund*

Fund 4295 FY 2017 Org 0441

1 PROMISE Scholarship – Transfer.. 80000 \$ 29,000,000

2 The above appropriation shall be transferred to the
3 PROMISE Scholarship Fund (fund 4296, org 0441) established
4 by W.Va. Code §18C-7-7.

5 The Legislature has explicitly set a finite amount of
6 available appropriations and directed the administrators of the
7 Program to provide for the award of scholarships within the
8 limits of available appropriations.

*297 - Economic Development Authority –
Economic Development Project Fund*

Fund 9065 FY 2017 Org 0944

1 Debt Service – Total. 31000 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess
3 lottery revenues are authorized to be transferred to the lottery
4 fund as reimbursement of amounts transferred to the economic
5 development project fund pursuant to section four of this title
6 and W.Va. Code §29-22-18, subsection (f).

*298 - Department of Education –
School Building Authority*

Fund 3514 FY 2017 Org 0402

1 Debt Service – Total. 31000 \$ 19,000,000

*299 - West Virginia Infrastructure Council –
West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2017 Org 0316

1 Directed Transfer. 70000 \$ 36,000,000

2 The above appropriation shall be allocated pursuant to
3 W.Va. Code §29-22-18d and §31-15-9.

*300 - Higher Education Policy Commission –
Higher Education Improvement Fund*

Fund 4297 FY 2017 Org 0441

1 Directed Transfer..... 70000 \$ 15,000,000

2 The above appropriation shall be transferred to fund 4903,
3 org 0442 as authorized by Senate Concurrent Resolution No. 41.

*301 - Division of Natural Resources
State Park Improvement Fund*

Fund 3277 FY 2017 Org 0310

1	Current Expenses (R).....	13000	\$	2,438,300
2	Repairs and Alterations (R).....	06400		2,161,200
3	Equipment (R).....	07000		200,000
4	Buildings (R).....	25800		100,000
5	Other Assets (R).....	69000		<u>100,500</u>
6	Total.....		\$	5,000,000

7 Any unexpended balances remaining in the above
8 appropriations for Repairs and Alterations (fund 3277,
9 appropriation 06400), Equipment (fund 3277, appropriation
10 07000), Unclassified – Total (fund 3277, appropriation 09600),
11 Unclassified (fund 3277, appropriation 09900), Current
12 Expenses (fund 3277, appropriation 13000), Buildings (fund
13 3277, appropriation 25800), and Other Assets (fund 3277,
14 appropriation 69000) at the close of the fiscal year 2016 are
15 hereby reappropriated for expenditure during the fiscal year
16 2017.

302 - Racing Commission –

Fund 7308 FY 2017 Org 0707

1	Special Breeders Compensation		
2	(WVC §29-22-18a,		
3	subsection (1)).	21800	\$ 2,000,000

*303 - Lottery Commission –
Distributions to Statutory Funds and Purposes*

Fund 7213 FY 2017 Org 0705

1	Parking Garage Fund – Transfer. . .	70001	\$ 500,000
2	2004 Capitol Complex Parking		
3	Garage Fund – Transfer.	70002	254,147
4	Capitol Dome and Improvements		
5	Fund – Transfer.	70003	2,155,201
6	Capitol Renovation and		
7	Improvement Fund – Transfer..	70004	2,795,627
8	Development Office Promotion		
9	Fund – Transfer.	70005	1,524,887
10	Research Challenge Fund –		
11	Transfer.	70006	2,033,184
12	Tourism Promotion Fund –		
13	Transfer.	70007	5,659,115
14	Cultural Facilities and Capitol		
15	Resources Matching		
16	Grant Program Fund –		
17	Transfer.	70008	1,433,371
18	Workers’ Compensation Debt		
19	Reduction Fund – Transfer. . . .	70009	11,000,000
20	State Debt Reduction Fund –		
21	Transfer.	70010	20,000,000
22	General Revenue Fund – Transfer..	70011	1,547,672
23	West Virginia Racing Commission		
24	Racetrack		
25	Video Lottery Account.	70012	4,066,363
26	State Road Fund – Transfer.	#####	4,101,073

27	Licensed Racetrack Regular		
28	Purse Fund.....	70014	<u>10,110,605</u>
29	Total.....		\$ 67,181,245

30 The appropriation to West Virginia Racing Commission
31 Racetrack Video Lottery Account (fund 7213, appropriation
32 70012) also includes funding to be transferred to the State Road
33 Fund under the provisions of H.B. 4625 in accordance with the
34 provisions of West Virginia Code §19-23-13c, §29-22-31,
35 §29-22A-20 and 29-22C-35.

304 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2017 Org 0100

1 Any unexpended balance remaining in the appropriation for
2 Publication of Papers and Transition Expenses – Lottery Surplus
3 (fund 1046, appropriation 06600) at the close of the fiscal year
4 2016 is hereby reappropriated for expenditure during the fiscal
5 year 2017.

305 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2017 Org 0307

1 Any unexpended balances remaining in the appropriations
2 for Unclassified – Total (fund 3170, appropriation 09600),
3 Recreational Grants or Economic Development Loans (fund
4 3170, appropriation 25300), and Connectivity Research and
5 Development – Lottery Surplus (fund 3170, appropriation
6 92300) at the close of the fiscal year 2016 are hereby
7 reappropriated for expenditure during the fiscal year 2017.

*306 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2017 Org 0441

- 1 Any unexpended balance remaining in the appropriation for
- 2 Advanced Technology Centers (fund 4932, appropriation 02800)
- 3 at the close of the fiscal year 2016 is hereby reappropriated for
- 4 expenditure during the fiscal year 2017.

*307 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 5219 FY 2017 Org 0506

- 1 Any unexpended balance remaining in the appropriation for
- 2 Capital Outlay and Maintenance (fund 5219, appropriation
- 3 75500) at the close of the fiscal year 2016 is hereby
- 4 reappropriated for expenditure during the fiscal year 2017.

308 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2017 Org 0511

- 1 Medical Services. 18900 \$ 17,277,985

*309 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2017 Org 0608

1 Any unexpended balance remaining in the appropriation for
 2 Capital Outlay and Maintenance (fund 6283, appropriation
 3 75500) at the close of the fiscal year 2016 is hereby
 4 reappropriated for expenditure during the fiscal year 2017.

5 Total TITLE II, Section 5 —

6 Excess Lottery Funds. \$ 284,459,230

1 **Sec. 6. Appropriations of federal funds.** — In accordance
 2 with Article 11, Chapter 4 of the Code from federal funds there
 3 are hereby appropriated conditionally upon the fulfillment of the
 4 provisions set forth in Article 2, Chapter 11B of the Code the
 5 following amounts, as itemized, for expenditure during the fiscal
 6 year 2017.

LEGISLATIVE

310 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2017 Org 2300

	Appro- p-riation		Federal Funds
1 Economic Loss Claim			
2 Payment Fund.	33400	\$	3,000,000

JUDICIAL

311 - Supreme Court

Fund 8867 FY 2017 Org 2400

1 Personal Services and Employee			
2 Benefits.	00100	\$	2,008,000
3 Current Expenses.	13000		<u>2,542,000</u>
4 Total.		\$	<u>4,550,000</u>

EXECUTIVE*312 - Governor's Office*

(WV Code Chapter 5)

Fund 8742 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 86,677
3	Current Expenses.	13000	138,323
4	Total.		\$ 225,000

313 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,563,760
3	Unclassified.	09900	50,534
4	Current Expenses.	13000	3,828,661
5	Repairs and Alterations.	06400	650,000
6	Equipment.	07000	910,500
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 7,053,455

*314 - Department of Agriculture –
Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 610,830
3	Unclassified.	09900	8,755
4	Current Expenses.	13000	136,012

5	Repairs and Alterations.	06400		15,000
6	Other Assets.	69000		<u>100,000</u>
7	Total.		\$	748,451

DEPARTMENT OF COMMERCE

318 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2017 Org 0305

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,578,347
3	Unclassified.	09900		51,050
4	Current Expenses.	13000		5,632,560
5	Repairs and Alterations.	06400		155,795
6	Equipment.	07000		100,000
7	Other Assets.	69000		<u>1,808,300</u>
8	Total.		\$	9,326,052

319 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2017 Org 0306

1	Personal Services and Employee			
2	Benefits.	00100	\$	54,432
3	Unclassified.	09900		2,803
4	Current Expenses.	13000		195,639
5	Repairs and Alterations.	06400		5,000
6	Equipment.	07000		7,500
7	Other Assets.	69000		<u>15,000</u>
8	Total.		\$	280,374

320 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 745,981
3	Unclassified.	09900	50,000
4	Current Expenses.	13000	<u>4,504,019</u>
5	Total.		\$ 5,300,000

321 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 384,072
3	Unclassified.	09900	5,572
4	Current Expenses.	13000	167,098
5	Repairs and Alterations.	06400	<u>500</u>
6	Total.		\$ 557,242

322 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 7,912,218
3	Unclassified.	09900	107,693
4	Current Expenses.	13000	5,556,594
5	Repairs and Alterations.	06400	289,400
6	Equipment.	07000	1,815,712
7	Buildings.	25800	951,000
8	Other Assets.	69000	1,951,000
9	Land.	73000	<u>1,000</u>
10	Total.		\$ 18,584,617

*323 - Division of Miners' Health,
Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits. 00100	\$	613,177
3	Current Expenses. 13000		150,000
4	Total.	\$	763,177

324 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2017 Org 0323

1	Unclassified. 09900		5,127
2	Current Expenses. 13000		507,530
3	Reed Act 2002 – Unemployment		
4	Compensation. 62200		2,850,000
5	Reed Act 2002 – Employment		
6	Services. 63000		1,650,000
7	Total.	\$	5,012,657

8 Pursuant to the requirements of 42 U.S.C. 1103, Section 903
9 of the Social Security Act, as amended, and the provisions of
10 W.Va. Code §21A-9-9, the above appropriation to Unclassified
11 and Current Expenses shall be used by WorkForce West Virginia
12 for the specific purpose of administration of the state's
13 unemployment insurance program or job service activities,
14 subject to each and every restriction, limitation or obligation
15 imposed on the use of the funds by those federal and state
16 statutes.

*325 - Office of the Secretary –
Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8780 FY 2017 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 497,289
3	Unclassified.	09900	106,795
4	Current Expenses.	13000	10,068,916
5	Repairs and Alterations.	06400	500
6	Equipment.	07000	<u>6,000</u>
7	Total.		\$ 10,679,500

326 - Division of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2017 Org 0328

1	Personal Services and Employee		
2	Benefits.	00100	\$ 411,574
3	Unclassified.	09900	7,350
4	Current Expenses.	13000	<u>316,076</u>
5	Total.		\$ 735,000

DEPARTMENT OF EDUCATION*327 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 7,078,855
3	Unclassified.	09900	2,000,000
4	Current Expenses.	13000	210,917,820
5	Repairs and Alterations.	06400	10,000

6	Equipment.	07000		10,000
7	Other Assets.....	69000		<u>10,000</u>
8	Total.....		\$	220,026,675

*328 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,992,648
3	Unclassified.	09900		1,150,500
4	Current Expenses.....	13000		128,101,265
5	Repairs and Alterations.....	06400		20,000
6	Equipment.	07000		100,000
7	Other Assets.....	69000		<u>25,000</u>
8	Total.....		\$	131,389,413

*329 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,519,972
3	Unclassified.	09900		155,000
4	Current Expenses.....	13000		14,320,081
5	Repairs and Alterations.....	06400		10,000
6	Equipment.	07000		10,000
7	Other Assets.....	69000		<u>10,000</u>
8	Total.....		\$	16,025,053

*320 - State Board of Education –
Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,044,940
3	Unclassified.	09900	1,000,000
4	Current Expenses.	13000	107,646,390
5	Repairs and Alterations.	06400	10,000
6	Equipment.	07000	10,000
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 112,721,330

DEPARTMENT OF EDUCATION AND THE ARTS

*321 - Department of Education and the Arts –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 8841 FY 2017 Org 0431

1	Personal Services and Employee		
2	Benefits.	00100	\$ 414,424
3	Current Expenses.	13000	5,589,576
4	Repairs and Alterations.	06400	<u>1,000</u>
5	Total.		\$ 6,005,000

322 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 743,046
3	Current Expenses.	13000	1,947,372
4	Repairs and Alterations.	06400	1,000

5	Equipment.	07000		1,000
6	Buildings.	25800		1,000
7	Other Assets.....	69000		1,000
8	Land.	73000		<u>360</u>
9	Total.....		\$	2,694,778

323 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2017 Org 0433

1	Personal Services and Employee			
2	Benefits.	00100	\$	333,648
3	Current Expenses.....	13000		1,076,162
4	Equipment.	07000		<u>543,406</u>
5	Total.....		\$	1,953,216

324 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2017 Org 0439

1	Equipment.	07000	\$	750,000
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*325 - State Board of Rehabilitation –
Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2017 Org 0932

1	Personal Services and Employee			
2	Benefits.	00100	\$	11,248,930
3	Current Expenses.....	13000		54,485,940
4	Repairs and Alterations.	06400		350,400
5	Equipment.	07000		<u>1,275,870</u>
6	Total.....		\$	67,361,140

*326 - State Board of Rehabilitation –
Division of Rehabilitation Services –
Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 13,730,634
3	Current Expenses.	13000	11,383,206
4	Repairs and Alterations.	06400	1,100
5	Equipment.	07000	<u>83,350</u>
6	Total.		\$ 25,198,290

DEPARTMENT OF ENVIRONMENTAL PROTECTION

327 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 28,402,177
3	Current Expenses.	13000	164,785,225
4	Repairs and Alterations.	06400	230,783
5	Equipment.	07000	725,238
6	Unclassified.	09900	1,900,000
7	Other Assets.	69000	154,416
8	Land.	73000	<u>100,000</u>
9	Total.		\$ 196,297,839

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

328 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 750,876
3	Unclassified.	09900	73,307
4	Current Expenses.	13000	<u>6,630,103</u>
5	Total.		\$ 7,454,286

*329 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 13,744,404
3	Unclassified.	09900	947,948
4	Current Expenses.	13000	79,110,551
5	Equipment.	07000	456,972
6	Buildings.	25800	155,000
7	Other Assets.	69000	380,000
8	Total.		\$ 94,794,875

*330 - Division of Health –
West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2017 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund – Transfer. . . .	68900	\$ 16,000,000

331 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2017 Org 0507

(WV Code Chapter 5F)

Fund 8876 FY 2017 Org 0601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 439,636
3	Unclassified.	09900	250,000
4	Current Expenses.	13000	24,307,690
5	Repairs and Alterations.	06400	3,000
6	Other Assets.	69000	<u>5,000</u>
7	Total.		\$ 25,005,326

*335 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2017 Org 0603

1	Unclassified.	09900	\$ 982,705
2	Mountaineer ChalleNGe Academy.	70900	3,375,000
3	Martinsburg Starbase.	74200	410,000
4	Charleston Starbase.	74300	400,000
5	Military Authority.	74800	<u>93,102,900</u>
6	Total.		\$ 98,270,605

7 The adjutant general shall have the authority to transfer
8 between appropriations.

*336 - Adjutant General –
West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2017 Org 0603

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,350,000

6	Buildings.	25800		750,500
7	Other Assets.....	69000		144,500
8	Land.	73000		<u>500</u>
9	Total.....		\$	7,891,105

340 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2017 Org 0619

1	Current Expenses.....	13000	\$	80,000
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341 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2017 Org 0620

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,056,170
3	Unclassified.	09900		25,185
4	Current Expenses.....	13000		18,774,373
5	Repairs and Alterations.	06400		<u>1,750</u>
6	Total.....		\$	19,857,478

DEPARTMENT OF REVENUE*342 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2017 Org 0704

1	Current Expenses.....	13000	\$	3,000,000
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DEPARTMENT OF TRANSPORTATION*343 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2017 Org 0802

1	Personal Services and Employee		
2	Benefits.	00100	\$ 501,394
3	Current Expenses.	13000	15,671,640
4	Repairs and Alterations.	06400	500
5	Total.		\$ 16,173,534

344 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2017 Org 0805

1	Personal Services and Employee		
2	Benefits.	00100	\$ 702,637
3	Current Expenses.	13000	9,161,605
4	Repairs and Alterations.	06400	2,500
5	Equipment.	07000	5,486,432
6	Buildings.	25800	205,526
7	Other Assets.	69000	35,000
8	Total.		\$ 15,593,700

345 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2017 Org 0806

1	Current Expenses.	13000	\$ 626,250
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DEPARTMENT OF VETERANS' ASSISTANCE

346 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2017 Org 0613

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,751,100
3	Current Expenses.	13000	3,925,900
4	Repairs and Alterations.	06400	50,000
5	Equipment.	07000	200,000
6	Buildings.	25800	600,000
7	Other Assets.	69000	100,000
8	Land.	73000	<u>100,000</u>
9	Total.		\$ 7,727,000

*347- Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2017 Org 0618

1	Personal Services and Employee		
2	Benefits.	00100	\$ 877,915
3	Current Expenses.	13000	844,092
4	Repairs and Alterations.	06400	220,000
5	Equipment.	07000	198,000
6	Buildings.	25800	296,000
7	Other Assets.	69000	20,000
8	Land.	73000	<u>10,000</u>
9	Total.		\$ 2,466,007

BUREAU OF SENIOR SERVICES

348 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2017 Org 0508

1	Personal Services and Employee		
2	Benefits.	00100	\$ 721,393
3	Current Expenses.	13000	13,811,853

2016]

HOUSE OF DELEGATES

2757

4	Repairs and Alterations.	06400		<u>3,000</u>
5	Total.		\$	14,536,246

MISCELLANEOUS BOARDS AND COMMISSIONS

*349 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2017 Org 0926

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,286,913
3	Current Expenses.	13000		843,953
4	Repairs and Alterations.	06400		40,000
5	Equipment.	07000		<u>1,862,000</u>
6	Total.		\$	4,032,866

*350 - Public Service Commission –
Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2017 Org 0926

1	Personal Services and Employee			
2	Benefits.	00100	\$	596,600
3	Current Expenses.	13000		124,628
4	Equipment.	07000		3,000
5	Unclassified.	09900		<u>4,072</u>
6	Total.		\$	728,300

351 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2017 Org 0941

1	Personal Services and Employee		
2	Benefits.	00100	\$ 159,235
3	Current Expenses.	13000	631,365
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	3,000
6	Other Assets.	69000	<u>2,000</u>
7	Total.		\$ 800,600
8	Total TITLE II, Section 6 –		
9	Federal Funds.		<u>\$4,499,497,279</u>

1 **Sec. 7. Appropriations from federal block grants.** – The
2 following items are hereby appropriated from federal block
3 grants to be available for expenditure during the fiscal year 2017.

*352 - West Virginia Development Office –
Community Development*

Fund 8746 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 648,117
3	Unclassified.	09900	375,000
4	Current Expenses.	13000	<u>36,476,883</u>
5	Total.		\$ 37,500,000

*353 - WorkForce West Virginia –
Workforce Investment Act*

Fund 8749 FY 2017 Org 0323

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,862,606
3	Unclassified.	09900	23,023
4	Current Expenses.	13000	30,013,511
5	Repairs and Alterations.	06400	1,600
6	Equipment.	07000	500
7	Buildings.	25800	<u>1,100</u>
8	Total.		\$ 32,902,304

*354 - Department of Commerce
Office of the Secretary –
Office of Economic Opportunity –
Community Services*

Fund 8781 FY 2017 Org 0327

1	Personal Services and Employee			
2	Benefits.	00100	\$	362,389
3	Unclassified.	09900		84,000
4	Current Expenses.	13000		12,043,111
5	Repairs and Alterations.	06400		1,500
6	Equipment.	07000		9,000
7	Total.		\$	12,500,000

*355 - Division of Health –
Maternal and Child Health*

Fund 8750 FY 2017 Org 0506

1	Personal Services and Employee			
2	Benefits.	00100	\$	2,124,294
3	Unclassified.	09900		110,017
4	Current Expenses.	13000		8,767,420
5	Total.		\$	11,001,731

*356 - Division of Health –
Preventive Health*

Fund 8753 FY 2017 Org 0506

1	Personal Services and Employee			
2	Benefits.	00100	\$	162,320
3	Unclassified.	09900		22,457
4	Current Expenses.	13000		1,895,366
5	Equipment.	07000		165,642
6	Total.		\$	2,245,785

*357 - Division of Health –
Substance Abuse Prevention and Treatment*

Fund 8793 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 822,766
3	Unclassified.	09900	115,924
4	Current Expenses.	13000	<u>10,653,740</u>
5	Total.		\$ 11,592,430

*358 - Division of Health –
Community Mental Health Services*

Fund 8794 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 936,557
3	Unclassified.	09900	33,533
4	Current Expenses.	13000	<u>2,383,307</u>
5	Total.		\$ 3,353,397

*359- Division of Human Services –
Energy Assistance*

Fund 8755 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,514,312
3	Unclassified.	09900	350,000
4	Current Expenses.	13000	<u>33,181,300</u>
5	Total.		\$ 35,045,612

*360 - Division of Human Services –
Social Services*

Fund 8757 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 14,231,684
3	Unclassified.	09900	171,982
4	Current Expenses.	13000	<u>2,870,508</u>
5	Total.		\$ 17,274,174

*361 - Division of Human Services –
Temporary Assistance for Needy Families*

Fund 8816 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 18,297,327
3	Unclassified.	09900	1,250,000
4	Current Expenses.	13000	<u>105,847,136</u>
5	Total.		\$ 125,394,463

*362 - Division of Human Services –
Child Care and Development*

Fund 8817 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,676,841
3	Unclassified.	09900	350,000
4	Current Expenses.	13000	<u>31,999,456</u>
5	Total.		\$ 37,026,297

*363 - Division of Justice and Community Services –
Juvenile Accountability Incentive*

Fund 8829 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 14,246
3	Current Expenses.	13000	85,729
4	Repairs and Alterations.	06400	<u>25</u>
5	Total.		\$ 100,000

6 Total TITLE II, Section 7 —
 7 Federal Block Grants..... \$ 324,436,229

1 **Sec. 8. Awards for claims against the state.** — There are
 2 hereby appropriated for fiscal year 2017, from the fund as
 3 designated, in the amounts as specified, general revenue funds
 4 in the amount of \$447,066, special revenue funds in the amount
 5 of \$89,910, and state road funds in the amount of \$983,485 for
 6 payment of claims against the state.

1 **Sec. 9. Appropriations from general revenue surplus**
 2 **accrued.** — The following items are hereby appropriated from
 3 the state fund, general revenue, and are to be available for
 4 expenditure during the fiscal year 2017 out of surplus funds
 5 only, accrued from the fiscal year ending June 30, 2016, subject
 6 to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the
 8 following appropriations be payable only from surplus accrued
 9 as of July 31, 2016 from the fiscal year ending June 30, 2016,
 10 only after first meeting requirements of W.Va. Code
 11 §11B-2-20(b).

12 In the event that surplus revenues available on July 31, 2016,
 13 are not sufficient to meet all the appropriations made pursuant to
 14 this section, then the appropriations shall be made to the extent
 15 that surplus funds are available as of the date mandated and shall
 16 be allocated first to provide the necessary funds to meet the first
 17 appropriation of this section and each subsequent appropriation
 18 in the order listed in this section.

364 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2017 Org 0211

1 Capital Outlay, Repairs and
 2 Equipment – Surplus..... 67700 \$ 5,000,000

*365 - Department of Revenue -
Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2017 Org 0702

1	Tax Technology Upgrade –		
2	Surplus.....	45000	\$ 2,700,000

*366 - Department of Education and the Arts -
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2017 Org 0431

1	WV Early Childhood Planning		
2	Task Force - Surplus.	14499	\$ 109,780

*367-A – State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2017 Org 0402

1	Virtual Schools on the Internet. . . .	17800	\$ 1,500,000
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*367-B – Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2017 Org 0506

1	State Aid for Local and Basic Public		
2	Health Services.	18400	\$ 2,000,000
3	Total TITLE II, Section 9 –		
4	Surplus Accrued.		<u>\$ 11,309,780</u>

1 **Sec. 10. Appropriations from lottery net profits surplus**
2 **accrued.** — The following item is hereby appropriated from the

3 lottery net profits, and is to be available for expenditure during
 4 the fiscal year 2017 out of surplus funds only, as determined by
 5 the director of lottery, accrued from the fiscal year ending June
 6 30, 2016, subject to the terms and conditions set forth in this
 7 section.

8 It is the intent and mandate of the Legislature that the
 9 following appropriation be payable only from surplus accrued
 10 from the fiscal year ending June 30, 2016.

11 In the event that surplus revenues available from the fiscal
 12 year ending June 30, 2016, are not sufficient to meet the
 13 appropriation made pursuant to this section, then the
 14 appropriation shall be made to the extent that surplus funds are
 15 available.

*367 - Bureau of Senior Services –
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2017 Org 0508

1	Senior Services Medicaid Transfer –		
2	Lottery Surplus.	68199	\$ <u>15,000,000</u>
3	Total TITLE II, Section 10 –		
4	Surplus Accrued.		\$ <u>15,000,000</u>

368 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2017 Org 0511

1	Medical Services –		
2	Lottery Surplus.	68100	\$ <u>32,094,436</u>
3	Total TITLE II, Section 11 –		
4	Surplus Accrued.		\$ <u>32,094,436</u>

1 **Sec. 12. Special revenue appropriations.** — There are
2 hereby appropriated for expenditure during the fiscal year 2017
3 appropriations made by general law from special revenues which
4 are not paid into the state fund as general revenue under the
5 provisions of W.Va. Code §12-2-2: *Provided*, That none of the
6 money so appropriated by this section shall be available for
7 expenditure except in compliance with the provisions of W.Va.
8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending
9 unit has filed with the director of the budget and the legislative
10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues
12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what
14 purposes the fund is to be expended.

1 **Sec. 13. State improvement fund appropriations.** —
2 Bequests or donations of nonpublic funds, received by the
3 Governor on behalf of the state during the fiscal year 2017, for
4 the purpose of making studies and recommendations relative to
5 improvements of the administration and management of
6 spending units in the executive branch of state government, shall
7 be deposited in the state treasury in a separate account therein
8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited
10 during the fiscal year 2017 to be expended as authorized by the
11 Governor, for such studies and recommendations which may
12 encompass any problems of organization, procedures, systems,
13 functions, powers or duties of a state spending unit in the
14 executive branch, or the betterment of the economic, social,
15 educational, health and general welfare of the state or its
16 citizens.

1 **Sec. 14. Specific funds and collection accounts.** — A fund
2 or collection account which by law is dedicated to a specific use

3 is hereby appropriated in sufficient amount to meet all lawful
4 demands upon the fund or collection account and shall be
5 expended according to the provisions of Article 3, Chapter 12 of
6 the Code.

1 **Sec. 15. Appropriations for refunding erroneous**
2 **payment.** — Money that has been erroneously paid into the state
3 treasury is hereby appropriated out of the fund into which it was
4 paid, for refund to the proper person.

5 When the officer authorized by law to collect money for the
6 state finds that a sum has been erroneously paid, he or she shall
7 issue his or her requisition upon the Auditor for the refunding of
8 the proper amount. The Auditor shall issue his or her warrant to
9 the Treasurer and the Treasurer shall pay the warrant out of the
10 fund into which the amount was originally paid.

1 **Sec. 16. Sinking fund deficiencies.** — There is hereby
2 appropriated to the Governor a sufficient amount to meet any
3 deficiencies that may arise in the mortgage finance bond
4 insurance fund of the West Virginia housing development fund
5 which is under the supervision and control of the municipal bond
6 commission as provided by W.Va. Code §31-18-20b, or in the
7 funds of the municipal bond commission because of the failure
8 of any state agency for either general obligation or revenue
9 bonds or any local taxing district for general obligation bonds to
10 remit funds necessary for the payment of interest and sinking
11 fund requirements. The Governor is authorized to transfer from
12 time to time such amounts to the municipal bond commission as
13 may be necessary for these purposes.

14 The municipal bond commission shall reimburse the state of
15 West Virginia through the Governor from the first remittance
16 collected from the West Virginia housing development fund or
17 from any state agency or local taxing district for which the
18 Governor advanced funds, with interest at the rate carried by the
19 bonds for security or payment of which the advance was made.

1 **Sec. 17. Appropriations for local governments.** — There
2 are hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to pay
4 taxes due counties, districts and municipal corporations and
5 which have been paid into the treasury:

6 (a) For redemption of lands;

7 (b) By public service corporations;

8 (c) For tax forfeitures.

1 **Sec. 18. Total appropriations.** — Where only a total sum
2 is appropriated to a spending unit, the total sum shall include
3 personal services and employee benefits, annual increment,
4 current expenses, repairs and alterations, buildings, equipment,
5 other assets, land, and capital outlay, where not otherwise
6 specifically provided and except as otherwise provided in TITLE
7 I – GENERAL PROVISIONS, Sec. 3.

1 **Sec. 19. General school fund.** — The balance of the
2 proceeds of the general school fund remaining after the payment
3 of the appropriations made by this act is appropriated for
4 expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION.

1 **Sec. 1. Appropriations conditional.** — The expenditure of
2 the appropriations made by this act, except those appropriations
3 made to the legislative and judicial branches of the state
4 government, are conditioned upon the compliance by the
5 spending unit with the requirements of Article 2, Chapter 11B of
6 the Code.

7 Where spending units or parts of spending units have been
8 absorbed by or combined with other spending units, it is the
9 intent of this act that appropriations and reappropriations shall be
10 to the succeeding or later spending unit created, unless otherwise
11 indicated.

Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

The bill was then ordered to third reading.

H. B. 4741, Expiring funds to the Division of Human Resources, Medical Services Trust Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4742, Expiring funds to the Division of Human Resources, Medical Services Trust Fund from various accounts; on second reading, coming up in regular order, was read a second time.

Delegates Fleischauer and Marcum moved to amend the bill on page three, line seventy-three through seventy-five, by striking out the words “organization 0507; in the amount of \$1,000,000 from the Division of Homeland Security and Emergency Management – West Virginia Interoperable Radio Project, fund 6295, fiscal year 2016”.

And,

On pages ten and eleven, lines two hundred fifty-six and two hundred fifty-seven, by striking out the words “the Division of Homeland Security and Emergency Management – West Virginia Interoperable Radio Project, fund 6295, fiscal year 2016, organization 0606 be decreased by expiring the amount of \$1,000,000” and a semicolon.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 483**), and there were--yeas 37, nays 60, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rohrbach, Rowe, Shaffer, Skinner, P. Smith, Sobonya, Sponaugle, Trecost and P. White.

Absent and Not Voting: Arvon, Deem and Walters.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White moved to amend the bill on page five, line one hundred fourteen in the bill's preamble, following the word "and", by inserting the following:

"Whereas, The current premium increases and benefit cuts for public employees and retirees are in effect a severe pay and pension cut for these state workers and retirees, and therefore an appropriation to fully fund the Public Employees Insurance Agency for the remainder of fiscal year of 2016 is appropriate; and".

And,

On page eleven, line two hundred seventy-four, following the words "all to the balance of the", by striking out the remainder of the sentence and inserting in lieu thereof, the following: "Public Employees Insurance Agency – fund 2180, organization 0225, to be available during the fiscal year ending June 30, 2016."

On the adoption of the amendment, Delegate Bates demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 484**), and there were--yeas 36, nays 62, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecoast and P. White.

Absent and Not Voting: Arvon and Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to engrossment and third reading.

S. B. 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters; on second reading having been postponed in earlier proceedings, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

**“ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT
AUTHORITY.**

§31-15-12b. Loans to support tourism.

(a) In order to preserve jobs and support tourism, the Economic Development Authority may make loans, consistent with this section.

(b) For purpose of this section an applicant is:

(1) A licensed entity that has filed an application for a loan under this section no later than July 1, 2016;

(2) A licensed entity operating in West Virginia; and

(3) A licensed entity that operates a resort comprised of at least seventy-five acres and employing a minimum of one hundred employees.

(c) The proceeds of the loans:

(1) May be used only to refinance the existing indebtedness of qualifying applicants; and

(2) May not exceed the outstanding indebtedness of the qualifying applicants as of January 1, 2016.

(d) The loans shall be:

(1) Made under terms and conditions established by the Economic Development Authority.

(2) Collateralized as determined by the Economic Development Authority.

(e) The total refinancing provided pursuant to this section by the Economic Development Authority shall not exceed 2.5% of the Economic Development Authority's direct loan portfolio."

The bill was then ordered to third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

Com. Sub. for S. B. 272, Allowing investigators from Attorney General's office to carry concealed weapons,

Com. Sub. for S. B. 278, Clarifying physicians' mutual insurance company is not state or quasi-state actor,

Com. Sub. for S. B. 404, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases,

S. B. 427, Transferring funds from State Excess Lottery Fund to Department of Revenue,

Com. Sub. for S. B. 465, Allowing professional employer insure certain risks through pure insurance captive,

And,

S. B. 578, Protecting utility workers from crimes against person.

Conference Committee Report Availability

At 7:14 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate has passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2588, Relating to the filing of financial statements with the Secretary of State.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-5b. Where financial statements shall be filed; filing date prescribed.

(a) The financial statements provided for in this article shall be filed, by or on behalf of candidates, with:

(1) The Secretary of State for legislative offices, circuit judge and family court judge, and for statewide and other offices to be nominated or elected by the voters of a political division greater than a county;

(2) The clerk of the county commission by candidates for offices to be nominated or elected by the voters of a single county or a political division within a single county except circuit judge and family court judge; or

(3) The proper municipal officer by candidates for office to be nominated or elected to municipal office.

(b) The statements may be filed by mail, in person, or by facsimile or other electronic means of transmission: *Provided*, That the financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture and Supreme Court of Appeals shall be filed electronically by the means of an Internet program ~~to be~~ that has been established by the Secretary of State on forms or in a format prescribed by the Secretary of State: *Provided, however*, That after January 1, 2018, unless a committee has been granted an exemption in case of hardship pursuant to subsection (c) of this section, all such statements required to be filed with the Secretary of State, on or behalf of a candidate for any elective office, shall be filed electronically by means of the internet program that has been established by the Secretary of State. If through or by no fault of the candidate, the candidate is unable to file the campaign financial statement, the candidate shall then file said statement in person, via facsimile or other electronic means of transmission, or by certified mail postmarked at the first reasonable opportunity.

(c) Committees required to report electronically may apply to the State Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.

(d) For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of

the United States Postal Service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during regular business hours of ~~such~~ that office.

(e) The sworn financial statements required to be filed by this section with the Secretary of State shall be posted on the internet by the Secretary of State within ten business days from the date the financial statement ~~was~~ is filed.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2588 — “A Bill to amend and reenact §3-8-5b of the Code of West Virginia, 1931, as amended, relating to the filing of financial statements with Secretary of State; requiring all candidates who file financial statements with Secretary of State to file electronically beginning January 1, 2018; making candidates required to file electronically eligible for exemption in the case of hardship; providing for exceptions in instances where a candidate has been unable to file the financial statement; directing candidates unable to file financial statement electronically to file by certified mail; and providing for exceptions in the case of hardship.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 485**), and there were--yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Butler, Moffatt and Reynolds.

Absent and Not Voting: Arvon, Deem and Marcum.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2588) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate has passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 4346, Relating to bear hunting and offenses and penalties.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page four, section twenty-two-a, lines seventy through seventy-three, after the word “wildlife” and the period, by striking out the remainder of the paragraph.

On page four, section twenty-two-a, line eighty, after the word “article”, by changing the period to a colon and inserting the following proviso: *Provided, That the claimant shall submit accurate information as to whether he or she is insured for the damages caused by the acts of bear on forms prescribed by the director, and all damage claims shall first be made by the claimant against any insurance policies before payment may be approved from the Bear Damage Fund. Claims for an award of compensation from the Bear Damage Fund shall be reduced or denied in the amount the claimant is actually reimbursed by insurance for the economic loss upon which the claim is based.*

And,

By amending the title of the bill to read as follows:

H. B. 4346 — “A Bill to amend and reenact §20-2-22a of the Code of West Virginia, 1931, as amended, relating to bear; clarifying bear hunting and baiting; requiring transported bear parts be tagged; revising provisions relating to bear damaging or destroying property; clarifying the issuance of depredation permits, recommendations and

reports; providing bear damage claim limit for property used to feed or bait wildlife; clarifying that claims be made against personal insurance; requiring payments from bear damage fund be reduced by insurance payments; assessing points and suspensions against hunting and fishing license for criminal violations; and decreasing criminal penalties and fines.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 486**), and there were--yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Flanigan.

Absent and Not Voting: Arvon, Deem and Marcum.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4346) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 487**), and there were--yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler.

Absent and Not Voting: Arvon, Deem and Marcum.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4346) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate has passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4587, Relating to violations associated with absent voters' ballots.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-19. Violations concerning absent voters' ballots; penalties.

(a) Any person who, with the intent to commit fraud, obtains, removes, or disseminates an absent voters' ~~voters'~~ voter's ballot, intimidates an absent voter, or completes or alters an absent voters' voter's ballot, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$20,000, imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Notwithstanding subsection (a) of this section, any person who, having procured an absent voter's official ballot or ballots, shall willfully neglect or refuse to return the same as provided in article three of this chapter, or who shall otherwise willfully violate any of the provisions of said article three of this chapter, ~~shall be~~ is guilty of a misdemeanor and, on conviction thereof, shall be fined not more than ~~two hundred and fifty dollars~~ \$250, or confined in ~~the county~~ jail for not more than three months. If the clerk of the ~~circuit court~~ county commission of any county, or any member of the board of ballot

commissioners, or any member of the board of canvassers ~~shall refuse~~ refuses or ~~neglect~~ neglects to perform any of the duties required of him or her by any of the provisions of articles three, five and six of this chapter relating to voting by absentees or shall disclose to any other person or persons how any absent voter voted, he or she shall, in each instance, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than ~~five hundred dollars~~ \$500, or confined in the county jail for not more than six months.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 4587 — “A Bill to amend and reenact §3-9-19 of the Code of West Virginia, 1931, as amended, relating to violations associated with absent voters’ ballots; changing reference of clerk of circuit court to clerk of county commission; making clerk of county commission guilty of misdemeanor if he or she refuses or neglects to perform duties required by him or her related to voting by absentees; making clerk of county commission guilty of misdemeanor if he or she discloses to any other person or persons how any absent voter voted; changing gender references; and making other technical and grammatical changes relating to the language in the misdemeanor provisions of this section.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 488**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Arvon and Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4587) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 6, Requiring drug screening and testing of applicants for TANF program.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 43, Clarifying means of posting to prohibit hunting or trespassing.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 47, Rewriting licensing requirements for practice of medicine and surgery and podiatry.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

Com. Sub. for S. B. 195, Authorizing DHHR to promulgate legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 265, Allowing library volunteers necessary access to user records.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment.

On page one, by striking out the title and substituting therefor a new title, to read as follows:

Com. Sub. for S. B. 265 — “A Bill to amend and reenact §10-1-22 of the Code of West Virginia, 1931, as amended, relating to confidentiality of certain library records; and providing that certain library records may be disclosed to members of library staff, including paid employees and unpaid volunteers upon completion of a written confidentiality agreement and the obtaining of written permission from the library director.”

The bill, as amended by the House, and further amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 489**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Arvon and Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 265) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

S. B. 333, Taking and registering of wildlife.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment.

On page one, by striking out the title and substituting therefor a new title, to read as follows:

S. B. 333 — “A Bill to amend and reenact §20-2-4, §20-2-21 and §20-2-22 of the Code of West Virginia, 1931, as amended, all relating to wildlife; clarifying that it is unlawful to possess live wildlife unless authorized; clarifying electronic registration and tagging of certain wildlife; and providing procedure for persons not required to obtain licenses or permits to register certain wildlife.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 490**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Arvon and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 333) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 326, Repeal and recodify law relating to contributing to delinquency of minor child,

Com. Sub. for S. B. 330, Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium,

And,

Com. Sub. for S. B. 338, Compiling and maintaining Central State Mental Health Registry.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 376, Expanding authority of Secretary of State and State Police.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, section ten, by striking out the words “(d) The Secretary of State shall propose rules for legislative approval to require applicants for any license or permit issued pursuant to this article that shall require each applicant to submit to a criminal history records check. The rule shall provide upon application that the applicant, shall submit to a state and national criminal history record check, as set forth in this subsection” and a colon and inserting in lieu thereof the following:

“(d) The Secretary of State shall require each applicant to submit to a state and national criminal history record check, as set forth in this subsection” and a colon.

And,

By amending the title of the bill to read as follows:

Com. Sub. for S. B. 376 — “A Bill to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating to background checks for applicants for private investigator and security guard licensure; requiring each applicant to submit to a state and national criminal history record check; requiring criminal history record check to be based on fingerprints submitted to West Virginia

Secretary of State or its assigned agent for forwarding to Federal Bureau of Investigation; requiring applicant to meet all requirements necessary to accomplish criminal history record check; providing that results of criminal history record check may not be released to or by a private entity except under certain circumstances; providing criminal history record check and related records are not public records; directing applicant to ensure that criminal history record check is completed as soon as possible after date of original application for registration; and providing that applicant pay actual costs of fingerprinting and criminal history record check.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 491**), and there were--yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Yeas: Marcum, McGeehan and Upson.

Absent and Not Voting: Arvon and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 376) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 416, allowing terminally ill patients access to investigational products.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 520, allowing PEIA ability to recover benefits or claims obtained through fraud.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Howell, Hill and P. White.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 597, Relating generally to Health Care Authority.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Ellington, Lane and Perdue.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 627, Permitting physician to decline prescribing controlled substance.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 42, WVSP Tpr. Phillip S. Kesner Memorial Bridge,

And,

H. C. R. 84, U.S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge,

And reports the same back with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 42 and H. C. R. 84) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 16, U.S. Army PFC John Ira Pinkerman Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 16 — “Requesting the Division of Highways name bridge number 06-35-3.83 (06A086) (38.36457, -82.37397), locally known as the ‘Green Valley Bridge’, which, along County Route 35 traverses ‘Fourpole Creek’ in Cabell County, the ‘U.S. Army PFC John Ira Pinkerman Memorial Bridge’.”

H. C. R. 30, U.S. Army PFC Everett Henry Woody Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 30 — “Requesting the Division of Highways to name the bridge carrying County Route 11 over the Buckhannon River in Upshur County, bridge number 49-11-17.13 (49A032), latitude 38.78276, longitude -80.22227, locally known as the Alexander Larch bridge, the ‘U.S. Army PFC Everett Henry Woody Memorial Bridge’.”

H. C. R. 33, U.S. Army Air Force S/SGT Harold “Dean” Baker Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 33 — “Requesting the Division of Highways to name Bridge Number 17-9-5.09 (17A350) (39.3443, -80.4013) locally known as Gregory Run Bridge carrying County

Route 9 over Ten Mile Creek, in Harrison County, the ‘U.S. Army Air Force S/SGT Harold “Dean” Baker Memorial Bridge’.”

H. C. R. 37, U.S. Army SGT Arthur George Roush Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 37 — “Requesting the Division of Highways to name bridge number 18-2-2.72 (18A004) (38.88137, -81.86401), locally known as Millwood Bridge, carrying WV 2 over Little Mill Creek in Jackson County, as the ‘U.S. Army SGT Arthur George Roush Memorial Bridge’.”

H. C. R. 65, U.S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 65 — “Requesting the Division of Highways to name the road from the beginning of Sand Creek Road on County Route 10/15 at the bend of the Guyandotte River and State Route 10 running one-half mile on Sand Creek Road in Lincoln County, the ‘U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road’.”

H. C. R. 75, U.S. Army SSG James C. Vickers and U.S. Marine Corps PFC Randall Carl Phelps Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 75 — “Requesting the Division of Highways to name the bridge on County Route 85, bridge number: 03-85/24-0.01 (03A167) (37.88458, -81.65320), locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in

Boone County, the 'U. S. Army SSG James C. Vickers and U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge'."

And,

H. C. R. 85, U.S. Navy MM2 Carl E. Keeney and U.S. Army PFC Carl M. Nicholas Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 85 — "Requesting the Division of Highways to name a future bridge, 03-3/14-0.10 (design # 11082) (38.09778, -81.61498), carrying county route 3/14 over Big Coal River in Boone County, the 'U.S. Navy MM2 Carl E. Keeney and U.S. Army PFC Carl M. Nicholas Memorial Bridge'."

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 16, Com. Sub. for H. C. R. 30, Com. Sub. for H. C. R. 33, Com. Sub. for H. C. R. 37, Com. Sub. for H. C. R. 65, Com. Sub. for H. C. R. 75 and Com. Sub. for H. C. R. 85) were each referred to the Committee on Rules.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

H. C. R. 22, U. S. Army SGT Gary Lee DeBoard Memorial Intersection,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 22 — “Requesting the Division of Highways to name the intersection of Alum Creek on SR 214 and Childress Road in Kanawha County, West Virginia, the ‘U. S. Army SGT Gary Lee DeBord Memorial Intersection’.”

H. C. R. 26, Corporal Gary Wayne Weekley Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 26 — “Requesting the Division of Highways name the bridge located near Middlebourne in Tyler County, bridge number 48-11/6-0.41, latitude 39.540139, longitude 80.889193, on Elk Fork Road that traverses Point Pleasant Creek the ‘U. S. Army CPL Gary Wayne Weekley Memorial Bridge’.”

H. C. R. 27, Michael Angiulli Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 27 — “Requesting the Division of Highways to name bridge number 17-50/59-0.01, locally known as the North View Overpass, crossing U.S. Route 50 on N 13th Street in North View, Harrison County, the ‘U. S. Marine Corp SGT Michael Angiulli Memorial Bridge’.”

And,

H. C. R. 92, Captain John Bond and the West Virginia State Troops Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. C. R. 92 — “Requesting the Division of Highways to name the bridge number 12-220-4.38 (12A068) (38.92159, -79.18086), locally known as the Pansy Bridge, carrying U. S. Route 220 over North Mill Creek, in Grant County, the ‘Union

Army CPT John Bond and the West Virginia State Troops Memorial Bridge’.”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for H. C. R. 22, Com. Sub. for H. C. R. 26, Com. Sub. for H. C. R. 27 and Com. Sub. for H. C. R. 92) were each referred to the Committee on Rules.

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 10th day of March, 2016, 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. 4540), Removing prohibition of disposal of certain electronics in landfills,

(H. B. 4735), Relating to the definition of health care provider, and clarifying that speech-language pathologists and audiologists are two separate providers,

(H. B. 4674), Relating to motor vehicle back-up lamps,

(H. B. 4654), Relating to the Executive Secretary of the Board of Registered Professional Nurses,

(H. B. 4644), Relating to jury fees,

(Com. Sub. for H. B. 4505), Allowing powerball winners to remain anonymous,

(Com. Sub. for H. B. 4330), Relating to make unlawful to take a fish, water animal or other aquatic organism from state waters to stock a commercial pond or lake,

(H. B. 4324), Authorizing information sharing by Workforce West Virginia,

(Com. Sub. for H. B. 4279), Relating to disposition of seized firearms,

(H. B. 4159), Making a supplementary appropriation to the Public Services Commission – Motor Carrier Division,

(H. B. 4157), Supplementing, amending, and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways,

(H. B. 2796), Providing paid leave for certain state officers and employees during a declared state of emergency.

And,

(S. B. 515), Authorizing payment of certain claims against the state.

Miscellaneous Business

Delegate Foster noted to the Clerk that he was absent when the votes were taken on Roll Nos. 461, 462 and 472, and had he been present he would have voted “Yea” thereon.

Delegate Howell noted to the Clerk that he was absent when the vote was taken on Roll No. 466, and had he been present he would have voted “Yea” thereon.

Delegate Rodighiero noted to the Clerk that he was absent when the vote was taken on Roll No. 456, and had he been present he would have voted “Yea” thereon.

Delegate Arvon noted to the Clerk that she was absent when the vote was taken on Roll No. 470, and had she been present she would have voted “Yea” thereon.

Delegate Caputo asked unanimous consent that the remarks of Delegates Reynolds and E. Nelson regarding Delegates Reynolds' amendment to H. B. 4017, Budget Bill, be printed in the Appendix to the Journal, which consent was not given, objection being heard.

Delegate Caputo then asked and obtained unanimous consent that the remarks of Delegates Reynolds and E. Nelson regarding Delegates Reynolds' amendment to H. B. 4017, Budget Bill, be printed in the Appendix to the Journal

Unanimous consent having been obtained, it was ordered that all remarks regarding the amendments offered to H. B. 4742, be printed in the Appendix to the Journal.

At 7:35 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, March 11, 2016.