

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2018  
FIFTY-NINTH DAY

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Charleston, West Virginia, Friday, March 9, 2018

The Senate met at 11:20 a.m.

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

Prayer was offered by Keith Tyler, State Director of the Fellowship of Christian Athletes, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Richard N. Ojeda II, a senator from the seventh district.

Pending the reading of the Journal of Thursday, March 8, 2018,

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

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

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill 51**, Relating to domestic relations.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Foster, Harshbarger and Isner.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Smith, and Woelfel.

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

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Senate Bill 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Hanshaw, Ambler, and Byrd.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Boso, Maynard, and Palumbo.

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

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Senate Bill 545**, Relating to driving privileges and requirements for persons under 18.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Zatezalo, Hollen, and Isner.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Weld, and Woelfel.

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

At the request of Senator Ferns, and by unanimous consent, the Senate proceeded to the sixth order of business.

Senators Takubo, Rucker, and Plymale offered the following resolution:

**Senate Concurrent Resolution 64**—Requesting the West Virginia Legislature designate Sunday, May 6, 2018, as a day of recognition of World Moyamoya Awareness Day in West Virginia.

Whereas, Moyamoya is a rare neurovascular condition seen in children and adults in which the walls of the internal carotid arteries—the vessels that supply blood to important areas of the brain—become thickened and narrowed, reducing blood flow; and

Whereas, This blockage of flow puts patients at great risk of transient ischemic attacks and strokes; and

Whereas, Moyamoya is not a well-known disease and can often go misdiagnosed or undetected; and

Whereas, While there is no known medical treatment capable of reversing or stabilizing progression of Moyamoya syndrome it can progress quickly; and

Whereas, Moyamoya syndrome is more common in children and has higher prevalence in children diagnosed with sickle cell disease or trisomy 21 (Down syndrome); and

Whereas, Awareness is the key to saving lives and early detection and diagnosis provides patients with Moyamoya the best chance of survival; and

Whereas, The good health and wellbeing of the residents of the state are enhanced as a direct result of increased awareness about Moyamoya and research into early detection, causes, and effective treatments; and

Whereas, West Virginia will be aligned with World Moyamoya Day on May 6th to bring awareness to the public and the medical community, prompting early diagnosis; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature designates Sunday, May 6, 2018, as a day of recognition of World Moyamoya Awareness Day in West Virginia; and, be it

*Further Resolved*, That all citizens are urged to take cognizance of this event and participate fittingly in its observance.

Which, under the rules, lies over one day.

Senators Romano, Beach, Boso, Facemire, Ojeda, and Plymale offered the following resolution:

**Senate Concurrent Resolution 65**—Requesting the Division of Highways name bridge number 08A003, locally known as the Queen Shoals Bridge, carrying Queen Road on County Route 1 over the Elk River in Clay County, the “U. S. Army SP4 Wilbur Allen Smith Memorial Bridge”.

Whereas, Wilbur Allen Smith, known throughout his life as “Al”, was born to Wilbur Amos Smith and Mary Eloise Rogers on January 8, 1948, in Madison, West Virginia, and he grew up in Clay County on Camp Creek Hill at Bomont, West Virginia; and

Whereas, Wilbur Allen Smith attended Clay County schools, graduated from Clay County High School in 1965, and was a member of the National Honor Society. He also attended Glenville State College for two and one-half years with a goal of becoming a biology teacher; and

Whereas, Wilbur Allen Smith was inducted in the U. S. Army in 1968 and, after training at Fort Bragg, North Carolina, and Fort Polk, Louisiana, he was sent to serve in Vietnam, beginning in October 1968. He served in the First Cavalry Division (Airmobile), an infantry division converted into a new kind of fighting force known as an air assault division for its extensive use of the mobility of helicopters, where he attained the rank of Specialist 4; and

Whereas, On June 2, 1969, two companies of SP4 Wilbur Allen Smith's division encountered a large number of enemy soldiers in fortified bunkers along the Dong Nai River. What followed was an intense firefight resulting in more than 55 casualties. During the battle, SP4 Wilbur Allen Smith volunteered to neutralize one of the bunkers and he maneuvered to within 15 feet of the enemy's position. Tragically, he was killed by the explosion of an enemy rocket grenade; and

Whereas, SP4 Wilbur Allen Smith was laid to rest in the Smith Family Cemetery on Camp Creek Hill near Bomont, West Virginia, and he is survived by two sisters and a large extended family who remember his life and spirit with great sentiment; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army SP4 Wilbur Allen Smith and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 08A003, locally known as the Queen Shoals Bridge, carrying Queen Road on County Route 1 over the Elk River in Clay County, the "U. S. Army SP4 Wilbur Allen Smith Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and placed signs identifying the bridge as the "U. S. Army SP4 Wilbur Allen Smith Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senators Boso, Maynard, and Plymale offered the following resolution:

**Senate Concurrent Resolution 66**—Requesting the Division of Highways name bridge number 42-25-21.84 (42SS028), locally known as Hart Chapel Bridge, carrying County Route 25 over the Laurel Fork in Randolph County, the "Robert 'Glen' Schoonover Memorial Bridge".

Whereas, Glen Schoonover was born and raised at the head of Chenoweth Creek Road in Elkins, West Virginia, in Randolph County; and

Whereas, He and his wife Arbutus "Sis" Schoonover were married 70 years on January 5, 2017. They were the parents of six children who they raised on Chenoweth Creek Road; and

Whereas, Glen Schoonover worked at various jobs over the years, but spent the longest time working for and retired from the West Virginia Division of Highways bridge crew as a foreman. During his time with the bridge crew, he worked in many of the counties surrounding Randolph County. At times, Glen Schoonover would travel to work in areas such as Burlington, Webster Springs, and Marlinton; and

Whereas, Glen Schoonover was employed during the Great Flood of 1985, which either damaged or destroyed many of the bridges in his district, requiring him to put in six- and seven-day work weeks to declare bridges safe or to get bridges back to safe status for use; and

Whereas, Over the years Glen Schoonover would place a penny in the completed bridge project that showed what year the bridge was done. It became the “trademark” of Glen Schoonover and his crews. During 2017, one of the two bridges near his home was being redone and his son Clif drove him down to where the crew was working on it to see if the penny was there. They found the penny and shared the story with the crew; and

Whereas, The bridge mentioned above is less than a mile from the Schoonover home where his 89-year-old wife still resides and where his children, grandchildren, close relatives, and friends pass over frequently. What an honor to his memory it would be to name this small blue bridge after him and his work on the bridges in our great state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 42-25-21.84 (42SS028), locally known as Hart Chapel Bridge, carrying County Route 25 over the Laurel Fork in Randolph County, the “Robert ‘Glen’ Schoonover 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 “Robert ‘Glen’ Schoonover Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Boley, Beach, Blair, Cline, Facemire, Karnes, Sypolt, Rucker, Maynard, Boso, and Plymale offered the following resolution:

**Senate Concurrent Resolution 67**—Requesting the Joint Committee on Government Organization to conduct a study to determine how West Virginia state students can improve their educational test scores.

Whereas, The West Virginia State Constitution mandates that “the Legislature shall provide, by general law, for a thorough, and efficient system of free schools”; and

Whereas, West Virginia’s college remediation rates in English Language Arts are 36 percent and 57 percent, respectively; and

Whereas, Ineffective current national standards and assessments have contributed to a decrease in student achievements; and

Whereas, According to numerous reports, West Virginia students rank as one of the lowest in the nation; and

Whereas, While the number of West Virginia students who take advanced placement exams has more than doubled over the past decade, in 2013 the state ranked 46th in the country for the number of students who actually pass the test to obtain college credit. The annual AP Report to the Nation showed that 9.8 percent of West Virginia high school graduates achieved a score of three or higher on an AP test in 2012, allowing them to earn college credit. The national average is nearly twice that, at 19.5 percent; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government Organization is hereby requested to conduct a study to determine how West Virginia state students can improve their educational test scores; and, be it

*Further Resolved,* That the West Virginia Legislature shall conduct an independent study of the current West Virginia education standards, curricula, assessments, teacher licensure requirements, and other relevant factors to determine a state-led approach in obtaining and achieving higher test scores, proficiencies, and achievements rates in West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government Organization is hereby requested to conduct a study to determine how West Virginia state students can improve their educational test scores, and increase proficiencies and their achievements rates in West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government Organization report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Which, under the rules, lies over one day.

Senators Trump, Ferns, Unger, Prezioso, Boso, and Plymale offered the following resolution:

**Senate Resolution 66**—Recognizing the 50th anniversary of the establishment of the Commission on Special Investigations and commending the work of its staff.

Whereas, The West Virginia Legislature established a Purchasing Practices and Procedures Commission by concurrent resolution in 1968 during its second extraordinary session to monitor the state's contracting and purchasing practices to prevent abuses that had been uncovered in the past; and

Whereas, The Purchasing Practices and Procedures Commission drafted legislation in 1970 that became the basis for state government purchasing procedures that have continued to the present day and, in that same year, the commission drafted the language for the Bribery and Corrupt Practices Act that is now codified in chapter 61 of the West Virginia Code; and

Whereas, This commission began with a staff of just two employees and the Legislature soon saw the need to dedicate more resources to the mission of the commission, establishing it as a statutory body in 1971; and

Whereas, This commission was and is a unique institution, composed of members of the Legislature and staffed by professional investigators to serve as a special investigatory team for the Legislature; and

Whereas, This commission was renamed in 1980 to be the Commission on Special Investigations and, at that time, the role of the commission was extended to include the investigation of conflicts of interest, bribery of state officials, malfeasance, and misfeasance of state officials and employees; and

Whereas, After these duties were added, the new commission hired Gary Slater, a retired State Trooper who had previously been assigned to the commission, to become its director, a position in which he served for 25 years; and

Whereas, The Commission on Special Investigations has worked with nearly every federal agency that has investigatory powers, including, but not limited to, the Federal Bureau of Investigation, Internal Revenue Service, Department of Health and Human Services, Secret Service, U. S. Marshall Service, Environmental Protection Agency, and General Services Administration; and

Whereas, This commission and its employees have, over the years, received numerous awards and commendations for outstanding investigation by United States Attorneys in northern and southern districts, state executive agencies, the Attorney General's office, and county prosecutors across the state, as well as uncountable accolades from private citizens and government workers; and

Whereas, The commission staff now includes six investigators who, among them have combined experience of over 200 years in law enforcement and investigation, and who have served the Legislature and the state with distinction; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the 50th anniversary of the establishment of the Commission on Special Investigations and commends the work of its staff; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the staff of the Commission on Special Investigations.

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

Senators Jeffries, Drennan, Stollings, Unger, and Plymale offered the following resolution:

**Senate Resolution 67**—Congratulating the Winfield High School girls' tennis team for winning the 2017 Class AA-A state championship.

Whereas, The Winfield High School girls' tennis team had an outstanding season on the courts, which ended with the Generals winning the 2017 Class AA-A state championship; and

Whereas, The Winfield High School girls' tennis team was the first public school to win the Class AA-A state championship in 10 years; and

Whereas, The Winfield High School girls' tennis team is led by coaches Julie Anderson and Kim Miller, and consists of players: Sydney Miller, Hannah Nunley, Emily Moore, Brittany Gray, Anicah Smith, Ginny Anderson, Michaela Ross, and Divija Kottapalli; and

Whereas, Every player of the Winfield High School girls' tennis team won an individual state title as well as the team title, a testament to the strength of each individual who formed this dominant team; and

Whereas, The Winfield High School girls' tennis team displayed their talent and determination for an entire season, and is a shining example of what can be accomplished with teamwork, dedication, and spirit; and

Whereas, The 2017 Winfield High School girls' tennis team will be remembered as one of the best tennis teams in West Virginia history; therefore, be it

*Resolved by the Senate:*

That the Senate hereby congratulates the Winfield High School girls' tennis team for winning the 2017 Class AA-A state championship; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to the Winfield High School girls' tennis team.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Drennan regarding the adoption of Senate Resolution 67 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:42 a.m., the Senate recessed to present Senate Resolution 67.

The Senate reconvened at 11:48 a.m. today and proceeded to the seventh order of business.

**Senate Concurrent Resolution 56**, PFC Franklin L. Conn and SGM Bill Jeffrey Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

**Eng. Senate Bill 635**, Relating to 2019 salary adjustment for employees of DHHR.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 635) passed with its title.

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

**Eng. Com. Sub. for House Bill 2008**, Relating to the Dealer Recovery Program.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2008) passed with its title.

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

**Eng. Com. Sub. for House Bill 2655**, Defining and establishing the crime of cyberbullying.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2655 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2655) passed.

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

**Eng. Com. Sub. for House Bill 2655**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3C-14c, relating to creating the offense of cyberbullying of minors; setting forth the essential elements of the offense; defining terms; providing exceptions; and establishing criminal penalties.

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

Thereafter, at the request of Senator Baldwin, and by unanimous consent, the remarks by Senator Arvon regarding the passage of Engrossed Committee Substitute for House Bill 2655 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for House Bill 2799**, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2799 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2799) passed with its title.

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

**Eng. House Bill 2869**, Providing for paid leave for certain state officers and employees during a declared state of emergency.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2869) passed.

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

**Eng. House Bill 2869**—A Bill to amend and reenact §15-5-15a of the Code of West Virginia, 1931, as amended, relating to providing paid leave for certain state employees during a declared state of emergency; authorizing state employees designated as essential members of an emergency aid provider be granted leave from state employment with pay to provide disaster relief or emergency services in areas of the state in which a state of emergency has been declared; capping available leave at fifteen work days in each year; setting manner of calculating employee compensation during leave; requiring reporting to Governor; directing Governor to keep record of total cost; setting limit on available leave based on cost to the state; authorizing supplement from Civil Contingent Fund; providing exceptions for availability of leave; and defining terms.

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

**Eng. Com. Sub. for House Bill 2982**, Relating to allowing draw games winners to remain anonymous.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

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

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 22. STATE LOTTERY ACT.**

#### **§29-22-15a. Option for winners of draw games to remain anonymous.**

(a) A person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket may remain anonymous: *Provided*, That such anonymity only applies to the person's name, personal contact information, and likeness.

(b) If the person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket desires to remain anonymous, he or she shall contact the State Lottery Director in writing or appear at the state lottery headquarters in person, concerning his or her desire to remain anonymous: *Provided*, That such a request only permits that the person's name, personal contact information, and likeness remain anonymous. At the time of his or her request to remain anonymous, the person shall provide his or her contact information, including any personal telephone number, residential address, and electronic mail address.

(c) Any request to remain anonymous may be made by certified mail addressed to the West Virginia State Lottery Director, P.O. Box 2067, Charleston, West Virginia 25327, by electronic mail to an email address that is to be established by West Virginia State Lottery prior to the effective date of this section, or in person at the state lottery headquarters. Once established, the secure email address shall be posted on the West Virginia Lottery's website prior to the effective date of this section.

(d) Upon receiving a request to remain anonymous, the director shall contact the person requesting anonymity and schedule an appointment to meet at any county, regional, or state lottery office to confirm the winning number and to otherwise make arrangements to protect the anonymity of the requesting person.

(e) If a person elects to remain anonymous pursuant to this section, he or she shall remit 5 percent of his or her winnings to the State Lottery Fund.

(f) The requirements of this section are effective on January 1, 2019.

## **CHAPTER 29B. FREEDOM OF INFORMATION.**

### **ARTICLE 1. PUBLIC RECORDS.**

#### **§29B-1-4. Exemptions.**

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under ~~the provisions of~~ this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical, or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical, or similar file;

(3) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(4) (A) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(B) Records identifying motor vehicles used, and the agencies using them, for undercover investigation activities conducted by state law-enforcement agencies or other agencies that are authorized by this code to use undercover or unmarked vehicles;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents, or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological, and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document, or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared, or maintained to prevent, mitigate, or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement, and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications, and network security records, passwords, security codes, or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests, or the results of those tests;

(15) Architectural or infrastructure designs, maps, or other records that show the location or layout of the facilities where computing, telecommunications, or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U.S.C. §222;

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident, or to facility personnel;

(20) Information related to applications under §61-7-4 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; and

(22) Information provided by a person when he or she elects to remain anonymous after winning a draw game prize, pursuant to of §29-22-15a of this code.

(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.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2982), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2982) passed.

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

**Eng. Com. Sub. for House Bill 2982**—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 certain winners of State Lottery draw games to remain anonymous; providing that a person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket may remain anonymous in regards to his or her name, personal contact information, and likeness; establishing a procedure by which a draw game winner may request anonymity from the State Lottery Director; providing that a draw game winner who elects to remain anonymous must remit 5 percent of his or her winnings to the State Lottery Fund; establishing an effective date; and providing that information provided when a draw game winner elects to remain anonymous is exempt from disclosure under the Freedom of Information Act.

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

**Eng. Com. Sub. for House Bill 3089**, Relating to the adoption of instructional resources for use in the public schools.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Jeffries—2.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3089) passed with its title.

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

**Eng. Com. Sub. for House Bill 4001**, Relating to eligibility and fraud requirements for public assistance.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

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

## **CHAPTER 9. HUMAN SERVICES.**

### **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.**

#### **§9-2-6. Powers of secretary.**

Within limits of state appropriations and federal grants and subject to provisions of state and federal laws and regulations, the secretary, in addition to all other powers, duties, and responsibilities granted and assigned to that office in this chapter and elsewhere by law, is authorized to:

(1) Promulgate, amend, revise and rescind department rules respecting the organization and government of the department and the execution and administration of those powers, duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(2) Promulgate, amend, revise, and rescind department rules and regulations respecting qualifications for receiving the different classes of welfare assistance consistent with or permitted by federal laws, rules and policies, but not inconsistent with state law: *Provided*, That rules and policies respecting qualifications shall permit the expenditure of state funds to pay for care rendered in any birthing center licensed under the provisions of §16-2e-1, *et seq.* of this code by a licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and which care is within the scope of duties for such licensed nurse midwife or midwife as permitted by the provisions of section seven of said article.

(3) Obtain by purchase or lease grounds, buildings, office or other space, equipment, facilities and services as may be necessary for the execution and administration of those powers, duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(4) Sign and execute in the name of the state by the State Department of Health and Human Resources any contract or agreement with the federal government or its agencies, other states, political subdivisions of this state, corporations, associations, partnerships, or individuals: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

(5) Sign and execute a contract to implement professional health care, managed care, actuarial and health care-related monitoring, quality review/utilization, claims processing, and independent professional consultant contracts for the Medicaid program: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains

in full force and effect and the secretary retains sole authority to review, approve, and issue changes to contracts issued under the former purchasing process, and is responsible for challenges, disputes, protests, and legal actions related to such contracts.

(6) Establish such special funds as may be required by the federal Social Security Act, as amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of the benefits and provisions thereof relating to the federal-state assistance and federal assistance programs administered by the department and to make payments into and disbursements out of any such special fund or funds in accordance with the requirements of the federal Social Security Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state law and the objects and purposes of this chapter. In addition, the State Department of Health and Human Resources, through the secretary, is hereby authorized to accept any and all gifts or grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose of public assistance programs. No part of this special fund shall revert to the General Revenue Funds of this state. No expenses incurred pursuant to this special fund shall be a charge against the General Funds of this state.

(7) Establish within the department an Office of Inspector General for the purpose of conducting and supervising investigations, performing inspections, evaluations, and review, and ~~for the purpose of~~ providing quality control for the programs of the department. The Office of Inspector General shall be headed by the Inspector General who shall report directly to the secretary. Neither the secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector General or his or her employees from initiating, carrying out, or completing any investigation, ~~quality control~~ inspection, evaluation, review or other activity oversight of public integrity by the Office of the Inspector General. The secretary shall place within the Office of Inspector General any function he or she deems necessary. Qualification, compensation, and personnel practice relating to the employees of the Office of the Inspector General, including that of the position of Inspector General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of Inspector General.

(8) Provide at department expense a program of continuing professional, technical, and specialized instruction for the personnel of the department.

(9) Pay from available funds all or part of the reasonable expenses incurred by a person newly employed by the department in moving his household furniture, effects, and immediate family from his or her place of residence in this state to his or her place of employment in this state; and to pay from available funds all or part of the reasonable expenses incurred by a department employee in moving his or her household furniture, effects, and immediate family as a result of a reassignment of the employee which is considered desirable, advantageous to and in the best interests of the state, but no part of the moving expenses of any one such employee shall be paid more frequently than once in 12 months or for any movement other than from one place of employment in this state to another place of employment in this state.

(10) Establish a program to provide reimbursement to employees of the department whose items of personal property, as defined by the department by policy, are damaged during the course of employment or other work-related activity as a result of aggressive behavior by a client or patient receiving services from the department: *Provided*, That such reimbursement is limited to a maximum amount of \$250 per claim.

(11) Establish and maintain such institutions as are necessary for the temporary care, maintenance, and training of children and other persons.

(12) Prepare and submit state plans which will meet the requirements of federal laws, rules governing federal-state assistance and federal assistance and which are not inconsistent with state law.

(13) Organize within the department a Board of Review, consisting of a chairman appointed by the secretary and as many assistants or employees of the department as may be determined by the secretary and as may be required by federal laws and rules respecting state assistance, federal-state assistance, and federal assistance, such Board of Review to have such powers of a review nature and such additional powers as may be granted to it by the secretary and as may be required by federal laws and rules respecting federal-state assistance and federal assistance.

(14) Provide by rules review and appeal procedures within the Department of Health and Human Resources as may be required by applicable federal laws and rules respecting state assistance, federal-state assistance, and federal assistance and as will provide applicants for, and recipients of, all classes of welfare assistance an opportunity to be heard by the Board of Review, a member thereof or individuals designated by the board, upon claims involving denial, reduction, closure, delay, or other action or inaction pertaining to public assistance.

(15) Provide by rules, consistent with requirements of applicable federal laws and rules, application forms and application procedures for the various classes of public assistance.

(16) Provide locations for making applications for the various classes of public assistance.

(17) Provide a citizen or group of citizens an opportunity to file objections and to be heard upon objections to the grant of any class of public assistance.

(18) Delegate to the personnel of the department all powers and duties vested in the secretary, except the power and authority to sign contracts and agreements.

(19) Make such reports in such form and containing such information as may be required by applicable federal laws and rules respecting federal-state assistance and federal assistance.

(20) Invoke any legal, equitable, or special remedies for the enforcement of the provisions of this chapter.

(21) Require a provider, subgrantee, or other entity performing services on behalf of the department to comply with all applicable laws, rules, and written procedures pertaining to the program for which the entity is providing or coordinating services, including, but not limited to, policy manuals, statements of work, program instructions, or other similar agreements. When submitting a claim for payment, the entity shall certify that it has complied with all material conditions for payment. Knowingly and intentionally submitting a claim or billing for services performed in material violation of any law, rule, policy, or other written agreement shall constitute fraud and the agreement for provision of services shall terminate. The entity shall be required to repay the department for any payment under the program for which the provider was not entitled, regardless of whether the incorrect payment was the result of department error, fraud, or other cause. A demand for repayment or termination of agreement for provision of services shall be subject to the due process procedures pursuant to §29A-5-1 et seq. of this code. The provisions of this subsection do not apply to fraud in the Medicaid program.

(22) Develop a data analytics pilot program to identify potential fraud and help guide policy objectives to eliminate future fraud. The Secretary shall submit a report containing the pilot program's results and recommendations to the Joint Committee on Government and Finance no later than December 31, 2020.

### **§9-7-2. Definitions.**

For the purposes of this article:

(1) "Assistance" means money payments, medical care, transportation and other goods and services necessary for the health or welfare of individuals, including guidance, counseling, and other welfare services and shall include all items of any nature contained within the definition of "welfare assistance" in §9-1-2 of this ~~chapter~~ code.

(2) "Benefits" means money payments, goods, services, or any other thing of value.

(3) "Board and Care Facility" means a residential setting where two or more unrelated adults receive nursing services or personal care services.

(4) "Claim" means an application for payment for goods or services provided under the medical programs of the Department of Health and Human Resources.

(5) "Entity" means any corporation, association, partnership, limited liability company, or other legal entity.

(6) "Financial Exploitation" means the intentional misappropriation or misuse of funds or assets of another.

"Fraud" means a knowing misrepresentation, knowing concealment, or reckless statement of a material fact.

(7) "Medicaid" means that assistance provided under a state plan implemented pursuant to the provisions of subchapter nineteen, chapter seven, Title 42, United States Code, as that chapter has been and may hereafter be amended.

(8) "Person" means any individual, corporation, association, partnership, proprietor, agent, assignee, or entity.

(9) "Provider" means any individual or entity furnishing goods or services under the medical programs of the Department of Health and Human Resources.

(10) "Unit" means the Medicaid Fraud Control Unit established under §9-7-1 of this ~~article~~ code.

### **§9-7-5. Bribery; false claims; conspiracy; criminal penalties; failure to maintain records.**

(a) A person shall not solicit, offer, pay, or receive any unlawful remuneration, including any kickback, rebate or bribe, directly or indirectly, with the intent of causing an expenditure of moneys from the medical services fund established pursuant to §9-4-2 of this ~~chapter~~ code, which is not authorized by applicable laws or rules and regulations.

(b) A person shall not make or present or cause to be made or presented to the Department of Health and Human Resources a claim under the medical programs of the Department of Health and Human Resources knowing the claim to be false, fraudulent, or fictitious.

(c) A person shall not enter into an agreement, combination or conspiracy to obtain or aid another to obtain the payment or allowance of a false, fraudulent, or fictitious claim under the medical programs of the Department of Health and Human Resources.

(d) Any person found to be in violation of §9-7-5 (a), §9-7-5(b) or §9-7-5(c) of this ~~section~~ code is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than 10 years or shall be fined not to exceed \$10,000, or both fined and imprisoned.

(e) Any person who, having submitted a claim for or received a benefit, payment, or allowance under the medical programs of the Department of Health and Human Resources, knowingly fails to maintain such records as are necessary to disclose fully the nature of a good or service for which a claim was submitted or benefit, payment, or allowance was received, or such records as are necessary to disclose fully all income and expenditures upon which rate of payment were based, for a period of at least five years following the date on which payment was received, shall be guilty of a misdemeanor and, upon conviction, may be imprisoned in a state correctional facility not to exceed one year or may be fined up to \$1,000, or both fined and imprisoned. Any person who knowingly destroys such records within five years from the date the benefit, payment, or allowance was received, shall be guilty of a felony, and may be imprisoned in a state correctional facility not less than one nor more than 10 years or may be fined not to exceed \$10,000, or both fined and imprisoned.

#### **§9-7-6. Civil remedies; statute of limitations.**

(a) Any person, firm, corporation, or other entity which ~~willfully, by means of a false statement or representation, or by concealment of any material fact, or by other fraudulent scheme, devise or artifice on behalf of himself, herself, itself, or others, obtains or attempts to obtain benefits or payments or allowances under the medical programs of the Department of Health and Human Resources to which he or she or it is not entitled, or, in a greater amount than that to which he or she or it is entitled, makes or attempts to make, or causes to be made, a claim for benefits, payments, or allowances under the medical programs of the Department of Health and Human Resources, when such person, firm, corporation, or entity knows, or reasonably should have known, such claim to be false, fictitious, or fraudulent, or fails to maintain such records as are necessary~~ shall be liable to the Department of Health and Human Resources in an amount equal to three times the amount of such benefits, payments, or allowances to which he or she or it is not entitled, and shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation.

(b) No criminal action or indictment need be brought against any person, firm, corporation or other entity as a condition for establishing civil liability hereunder.

(c) A civil action under this section may be prosecuted and maintained on behalf of the Department of Health and Human Resources by the Attorney General and the Attorney General's assistants or a prosecuting attorney and the prosecuting attorney's assistants or by any attorney in contract with or employed by the Department of Health and Human Resources to provide such representation.

(d) Any civil action brought under this section shall be brought within five years from the time the false, fraudulent, or fictitious claim was made. Claims will be judged based on the Medicaid or program rules in existence at the time of the claim submission.

## **ARTICLE 8. ELIGIBILITY AND FRAUD REQUIREMENTS FOR PUBLIC ASSISTANCE.**

### **§9-8-1. Definitions.**

As used in this article:

“Able bodied adult” means a person between the ages of 18 and 49 years of age without dependents and who does not meet any of the exemptions set forth in §9-8-2(a) of this code.

“Applicant” or “recipient” means a person who is applying for, or currently receiving, public assistance in the State of West Virginia from the department.

“Department” means the West Virginia Department of Health and Human Resources.

“Electronic benefit transfer” or “EBT” means any electronic system which allows the department to issue and track benefits via a magnetically encoded payment card.

“Good cause” means circumstances beyond the household’s control, including, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, natural disaster, a declared state of emergency due to inclement weather, or the unavailability of transportation.

“Public assistance” means government benefits provided to qualifying individuals on the basis of need to provide basic necessities to individuals and their families. These shall include, but are not limited to, the following:

(A) Supplemental Nutrition Assistance Program, or SNAP;

(B) Medicaid; and

(C) Temporary Assistance to Needy Families, or TANF.

“Secretary” means the Secretary of the West Virginia Department of Health and Human Resources.

“Work” or “working” means:

(A) Work in exchange for money;

(B) Work in exchange for goods or services (“in kind” work);

(C) Unpaid work, verified under standards established by the department in rule; or

(D) Any combination thereof.

### **§9-8-2. Work requirements.**

(a) All able bodied adults may receive Supplemental Nutrition Assistance benefits for only three months in each 36-month period. Recipients are exempt from the time limit if they are

disabled, pregnant, responsible for the care of a child, or an incapacitated adult as defined in §61-2-29 of this code, participating regularly in a drug or alcohol treatment program, are receiving unemployment compensation, have been medically certified as unfit for work, are employed or are participating and complying with the requirements of a work, education, or volunteer program for at least 20 hours per week, or are veterans receiving disability compensation from the U.S. Department of Veterans Affairs.

(b) Beginning October 1, 2018, the department shall discontinue and shall not seek federal waivers granted pursuant to 7 U.S.C. § 2015(o) for Able Bodied Adults Without Dependents (ABAWD) for any county that cannot be demonstrated to have, through data in conformance with U.S. Bureau of Labor Statistics methodology as specified in 7 CFR §273.24(f)(2), a recent 12-month average unemployment rate above 10 percent; a recent 24-month average unemployment rate 20 percent above the national average for the same 24-month period; qualification for extended unemployment benefits; or designation as a "labor surplus area" by the U.S. Department of Labor. These waivers exempt able bodied adults with no children from work requirements for receipt of SNAP benefits.

(c) The department shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability, no later than October 1, 2020, on the employment impact of ABAWD requirements in those counties where they were implemented as of October 1, 2018. The report shall include, on a county-by-county basis, information on the number of SNAP recipients subject to work requirements; the number exempted from work requirements and the reasons for exemption; the number of applicants denied benefits due to non-compliance with work requirements; the dollar amount of benefits withheld due to non-compliance; the estimated fiscal impact on SNAP retailers of withholding those benefits; the number of recipients who engaged in work, education, or volunteerism in order to maintain benefits; the efforts made to assist recipients with meeting work requirements in order to maintain benefits; and any such recommendations pertaining to work requirements as the department deems advisable.

(d) If a recipient resides in a county subject to the provisions of this article, an applicant shall be deemed as complying with the requirements of a work, education, or volunteer program if any of the following requirements are satisfied:

(1) Working at least 20 hours per week, averaged monthly, or 80 hours a month;

(2) Participating in, and complying with, the requirements of a work force training program of 20 hours per week, as determined by the department in rule;

(3) Volunteering 20 hours a week, as determined by the department in rule;

(4) Any combination of working, volunteering and/or participating in a work program for a total of 20 hours per week, as determined by the department in legislative rule; or

(5) Participating in, and complying with, a workfare program as set out in 7 C.F.R. 273.24(a)(3).

(e) As determined by the department, if a recipient would have worked an average of 20 hours per week but missed some work for good cause, the recipient shall be considered to have met the work requirement if the absence from work is temporary and the recipient retains his or her job. Good cause includes circumstances beyond the household's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a

household emergency, natural disaster, a declared state of emergency due to inclement weather, or the unavailability of transportation.

(f) If the department determines that a waiver, or an amendment to a waiver, is necessary to implement a policy that complies with 7 C.F.R. 273.24, it shall request the waiver or the amendment to the waiver from the United States Department of Agriculture.

(g) The department shall propose legislative rules in accordance with the provisions of this code for a plan for implementation of the requirements set forth in this section in counties that are subject to the requirements set forth in §9-8-2 (d) of this section code.

### **§9-8-3. Income and identity verification.**

(a) By December 31, 2018, the department shall redesign an existing system or establish a new computerized income, asset, and identity eligibility verification system or contract with a third-party vendor to verify eligibility, eliminate the duplication of assistance, and deter waste, fraud, and abuse in each public assistance program which it administers.

(b) The department may contract with a third-party vendor to develop a system to provide a service or verify income, assets, and identity eligibility of applicants to prevent fraud, misrepresentation, and inadequate documentation when determining eligibility for public assistance. This system or service shall be accessed prior to determining eligibility, periodically between eligibility redeterminations, and during eligibility redeterminations and reviews. The department may contract with a vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

(c) A contract made pursuant to this section may not include a provision that provides the vendor with a monetary incentive for reducing the number of recipients.

(d) Nothing in this article precludes the department from continuing to conduct additional eligibility verification processes currently in practice.

### **§9-8-4. Eligibility verification.**

All applications for benefits must be processed through a system as set forth in this article. Complete applications, including the interview, shall be processed within 10 days of receipt or the maximum period required by federal law. Prior to determining eligibility, the department shall access information for every applicant from federal, state, and other sources: *Provided*, That such access does not violate any federal law.

### **§9-8-5. Identity authentication.**

(a) Prior to awarding public assistance, applicants for benefits must complete a computerized identity authentication process to confirm the identity of the applicant. This shall be done with a knowledge-based questionnaire consisting of financial and/or personal questions. The questionnaire must contain questions tailored to assist persons without a bank account or those who have poor access to financial and banking services or who do not have an established credit history. The questionnaire may be submitted online, in-person, or via telephone.

(b) The department shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability regarding the feasibility of implementing the photo EBT

card option under 7 U.S.C. § 2016(h)(9). The study shall address certain operational issues to ensure that state implementation would be consistent with all federal requirements, and that program access is protected for participating households, including, but not limited to, allowing the recipient to designate permitted users for purposes of utilizing the photo EBT card.

#### **§9-8-6. Case review.**

(a) If the information obtained from the review provided in this article does not result in the department finding a discrepancy or change in an applicant's or recipient's circumstances affecting eligibility, the department shall not take any further action and shall continue processing the application.

(b) If the review results in a discrepancy, the department shall promptly redetermine eligibility.

#### **§9-8-7. Notice and right to be heard.**

(a) An applicant shall be given written notice and the opportunity to explain any issues with the application or redetermination as set forth in §9-8-6 of this code. Self-declarations by applicants or recipients shall be accepted as verification of categorical and financial eligibility if no other verification source is available. In cases requiring expedited services an applicant's statement may be temporarily accepted until such time as verification is possible.

(b) The notice given to the applicant or recipient is required to describe the circumstances of the issue, the manner in which the applicant or recipient may respond, and the consequences of failing to take action. If the applicant does not respond timely as required by federal law, the department shall take appropriate action. The department may request additional information as it finds necessary to reach a decision.

(c) An individual may respond in writing, electronically, or verbally. If an individual responds verbally, staff shall note the time and contents of the response in the individual's file. The response by the individual may:

(1) Disagree with the findings of the department. The department shall reinvestigate the matter if the applicant or recipient disagrees. If the department finds that there has been an error, the department shall take immediate action to correct it. If the department determines that there is no error, the department shall determine the effect of the response on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient; or

(2) Agree with the findings of the department. The department shall determine the effect on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient.

(d) If the applicant fails to respond to the notice, the department shall deny or discontinue assistance for failure to verify information. Eligibility for assistance may not be established or reestablished until the issue has been resolved.

#### **§9-8-8. Referrals for fraud, misrepresentation or inadequate documentation.**

(a) After the case review as set forth in §9-8-6 of this code, the department shall refer cases of suspected fraud to the Office of Inspector General within the department. That office shall take

appropriate action, including civil penalties or referral to an appropriate prosecuting attorney for criminal prosecution.

(b) In cases of substantiated fraud, upon conviction, the state shall review all appropriate legal options. These may include, but are not limited to, removal from other public assistance programs and garnishment of wages or state income tax refunds until the department recovers an equal amount of benefits fraudulently claimed.

(c) The department may refer suspected cases of fraud, misrepresentation, or inadequate documentation to appropriate agencies, divisions, or departments for review of eligibility issues in other public assistance programs. This should also include cases in which an individual is determined to be no longer eligible for the original program.

#### **§9-8-9. Reporting to the Governor and Legislature.**

The department shall prepare an annual report by January 15 each year to the Governor and Legislative Oversight Commission on Health and Human Resources Accountability. The report shall contain information on the effectiveness and general findings of the eligibility verification system, including the number of cases reviewed, the number of case closures, the number of referrals for criminal prosecution, recovery of improper payment, collection of civil penalties, the outcomes of cases referred to the Office of Inspector General, and any savings that have resulted from the system.

#### **§9-8-10. Prohibitions on use of electronic benefit transfer cards.**

(a) To ensure that public assistance program funds are used for their intended purposes, funds available on electronic benefit transfer cards may not be used to purchase alcohol, liquor or imitation liquor, cigarettes, tobacco products, bail, gambling activities, lottery tickets, tattoos, travel services provided by a travel agent, money transmission to locations abroad, sexually oriented adult materials, concert tickets, professional or collegiate sporting event tickets, or tickets for other entertainment events intended for the general public.

(b) Electronic benefit transfer card transactions are prohibited at all casinos, gaming establishments, tattoo parlors, massage parlors, body piercing parlors, spas, nail salons, lingerie shops, vapor cigarette stores, psychic or fortune-telling businesses, bail bond companies, video arcades, movie theaters, swimming pools, cruise ships, theme parks, dog or horse racing facilities, pari-mutuel facilities, sexually oriented businesses, retail establishments which provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, and businesses or retail establishments where minors under age 18 are not permitted.

(c) Upon enrollment, the department shall provide all applicants with an itemized list of prohibited purchases, including those specified in this section, and make such list available on the department's website.

(d) If a recipient is found to have violated the provisions of this section, the department shall issue a warning in writing to the recipient. The recipient is subject to disqualification of benefits for up to three months following the first offense, for up to one year following the second offense, and a permanent termination of benefits following the third offense, unless expressly prohibited by federal law.

**§9-8-11. Tracking out-of-state spending.**

(a) The department shall post on its website and provide to the Joint Committee on Government and Finance a report of Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families benefit spending on or before January 15 of each year.

(b) The report required by this section shall include:

(1) The dollar amount and number of transactions of Supplemental Nutrition Assistance Program benefits that are accessed or spent out-of-state, by state;

(2) The dollar amount and number of transactions of Temporary Assistance for Needy Families benefits that are accessed or spent out-of-state, by state;

(3) The dollar amount, number of transactions and times of transactions of Supplemental Nutrition Assistance Program benefits that are accessed or spent in-state, by retailer, institution or location; and

(4) The dollar amount, number of transactions and times of Temporary Assistance for Needy Families transactions of benefits that are accessed or spent in-state, disaggregated by retailer, institution, or location.

(c) The report required pursuant to this section shall not identify individual recipients.

**§9-8-12. Rulemaking.**

The secretary may promulgate rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code which he or she finds necessary to effectuate the provisions of this article.

**CHAPTER 61. CRIMES AND PUNISHMENT.****ARTICLE 3. CRIMES AGAINST PROPERTY.****§61-3-54. Taking identity of another person; penalty.**

Any person who knowingly takes the name, birth date, social security number, or other identifying information of another person, without the consent of that other person, with the intent to fraudulently represent that he or she is the other person for the purpose of making financial or credit transactions in the other person's name, or for the purpose of gaining employment, is guilty of a felony and, upon conviction, shall be punished by confinement in the penitentiary not more than five years, or fined not more than \$1,000, or both: *Provided*, That the provisions of this section do not apply to any person who obtains another person's drivers license or other form of identification for the sole purpose of misrepresenting his or her age.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4001), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4001 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Ojeda, Plymale, Prezioso, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Beach, Facemire, Jeffries, Palumbo, Romano, and Stollings—6.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) passed.

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

**Eng. Com. Sub. for House Bill 4001**—A Bill to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §9-7-2, §9-7-5, and §9-7-6 of said code; to amend said code by adding thereto a new article, designated §9-8-1, §9-8-2, §9-8-3, §9-8-4, §9-8-5, §9-8-6, §9-8-7, §9-8-8, §9-8-9, §9-8-10, §9-8-11, and §9-8-12; and to amend and reenact §61-3-54 of said code, all relating to investigations, inspections, evaluations, and review conducted by the Department of Health and Human Resources to prevent fraud and abuse; disenrolling providers who commit fraud and requiring repayment; defining fraud as it relates to Medicaid; authorizing penalties against providers for failure to keep medical records for a specific time period; authorizing a civil cause of action for fraud when a person or entity knew or should have known a claim to be false; enlarging the statute of limitations to file health care fraud civil actions; requiring a data analytics pilot program; requiring a report on the pilot project to the Legislature; defining terms relating to public assistance; requiring the Department of Health and Human Resources to implement work requirements for applicants of Supplemental Nutrition Assistance Program (SNAP); to limit recipients to 3 months of benefits in any 36-month period unless the recipient is working or participating in a work, educational, or volunteer program for at least 20 hours a week; requiring discontinuance of a federal waiver in certain counties; requiring a study of the impact of the SNAP work requirements in those counties where they were implemented; eliminating the federal waiver statewide within a certain time-period; requiring a report to the legislature; establishing work requirements; authorizing rulemaking; requiring a design or establishment of a computerized income, asset, and identity verification system for each public assistance program administered by the Department of Health and Human Resources; allowing for contracting with a third-party vendor; setting out required contract terms; requiring accessing information of various federal, state, and miscellaneous sources for eligibility verification; requiring identity authentication as a condition to receive public assistance; requiring the department to study the feasibility of requiring photos on EBT cards; specifying procedures for case review of public assistance benefits; setting forth notice requirements and right to a hearing; requiring referrals for fraud, misrepresentation, and inadequate documentation; authorizing referrals of suspected cases of fraud for criminal prosecution; requiring report to the Governor and Legislature; setting forth prohibitions on the use of an electronic benefit transfer card; tracking out-of-state spending of SNAP and TANF benefits; providing for rulemaking; and providing a penalty for taking the identity of another person for the purpose of gaining employment.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Stollings regarding the passage of Engrossed Committee Substitute for House Bill 4001 were ordered printed in the Appendix to the Journal.

**Eng. Com. Sub. for House Bill 4002**, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Facemire, and Romano—3.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4002) passed with its title.

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

**Eng. Com. Sub. for House Bill 4006**, Revising the processes through which professional development is delivered for those who provide public education.

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

Pending extended discussion,

At the request of Senator Ferns, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

**Eng. Com. Sub. for House Bill 4009**, State Settlement and Recovered Funds Accountability Act.

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

Pending discussion,

(Senator Palumbo in the Chair.)

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

The question being "Shall Engrossed Committee Substitute for House Bill 4009 pass?"

On the passage of the bill, the yeas were: Arvon, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—22.

The nays were: Azinger, Beach, Facemire, Jeffries, Ojeda, Plymale, Prezioso, Romano, Rucker, Stollings, and Woelfel—11.

Absent: Mann—1.

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

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

**Eng. Com. Sub. for House Bill 4009**—A Bill to repeal §5-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5-3A-1, §5-3A-2, §5-3A-3, §5-3A-4, §5-3A-5, and §5-3A-6, all relating to creating the state Settlement and Recovered Funds Accountability Act; providing a short title; setting forth legislative findings; directing that recovered funds and assets to be deposited into the State Treasury in the General Revenue Fund of the state, and providing exceptions; directing that certain recovered funds and assets be held in trust to be deposited into a special revenue account in the State Treasury; requiring legislative appropriation of those funds and assets; creating two special revenue funds in the state treasury, known as the Consumer Protection Recovery Fund and the Consumer Protection Restitution Fund; requiring annual transfer of monies exceeding \$7 million in the Consumer Protection Recovery Fund to the General Revenue Fund; requiring for disbursement of funds from the Consumer Protection Recovery Fund; requiring transfer of funds from the Consumer Protection Recovery Fund into the Consumer Protection Recovery Fund; authorizing the deposit and expenditure of attorney fees, expenses and costs awarded to the Attorney General from the fund; prohibiting agreements to settlement or agreement terms that are contrary to the provisions of law; requiring reporting by the Attorney General to report annually as to the receipts and expenditures of the funds and the disposition of causes; and repealing provisions requiring the Attorney General to deposit all fees received for representing the state into the General Revenue Fund.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Beach, Facemire, Jeffries, Ojeda, and Romano—6.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4009) takes effect July 1, 2018.

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

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

At the request of Senator Beach, and by unanimous consent, Senator Beach addressed the Senate regarding a letter he wrote requesting the Governor appoint six additional women to the Public Employees Insurance Task Force.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senator Beach were ordered printed in the Appendix to the Journal.

The Senate then resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4036**, Increasing the maximum salaries of family case coordinators and secretary-clerks.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4036) passed with its title.

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

**Eng. Com. Sub. for House Bill 4150**, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

On page three, section five hundred one, line fifty-five, after the word “number” by striking out the comma and the word “location”.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4150), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4150 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4150) passed with its title.

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

On motion of Senator Ferns, at 1:12 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 2:41 p.m. today and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 4156**, Establishing the qualifications of full and part time nursing school faculty members.

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

At the request of Senator Takubo, unanimous consent was granted to offer an amendment to the bill on third reading.

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

On page four, section eight, line nineteen, after the word “if” by inserting the words “approved by the board, or”.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4156), as amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4156) passed.

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

**Eng. Com. Sub. for House Bill 4156**—A Bill to amend and reenact §30-7-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-5 of said code; to amend §30-7A-8 of said code; and to amend said code by adding thereto a new section, designated §30-7-5a, all relating nursing schools and practical nursing schools and nursing and practical nursing education; modifying accreditation standards for nursing schools and practical nursing schools by the boards; setting out school of nursing faculty requirements; establishing the qualifications of full and part time nursing school faculty members; granting exceptions; and defining a term.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4156) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4157**, Eliminating the refundable exemption for road construction contractors.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4157) passed with its title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4157) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4166**, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4166) passed with its title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4166) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4187**, Business Liability Protection Act.

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

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

The nays were: Palumbo—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4187) passed.

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

**Eng. Com. Sub. for House Bill 4187**—A Bill to amend and reenact §61-7-14 of the code of West Virginia, 1931, as amended, relating to creating the Business Liability Protection Act; providing definitions; prohibiting owners, lessees, or other persons charged with the care, custody, and control of real property from prohibiting any customer, employee, or invitee from possessing a legal owned firearm under certain circumstances; prohibiting owners, lessees, or other persons charged with the care, custody, and control of real property from violating certain privacy rights of a customer, employee, or invitee; providing that no employer may condition employment under certain circumstances; providing that no owner, lessee, or other person charged with the care, custody, and control of real property may prevent a customer, employee, or invitee from entering the parking lot because the motor vehicle contains a legal firearm; providing immunity and limitations of liability; providing that the Attorney General is authorized to enforce the such provisions; providing customers, employees, and invitees with a civil cause of action; and providing forms of relief and civil penalties.

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

**Eng. Com. Sub. for House Bill 4217**, Permitting an attending physician to obtain a patient's autopsy report.

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

At the request of Senator Ferns, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4006, already placed in that position.

**Eng. Com. Sub. for House Bill 4233**, Relating generally to fraudulent transfers.

On third reading, coming up in regular order, with the unreported Judiciary committee amendments pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

On page two, section one, line thirty-five, by striking out the words "paragraph (ii)" and inserting in lieu thereof the words "subparagraph (ii) of this paragraph";

On page three, section one, line forty-two, by striking out the words "paragraph (iv)" and inserting in lieu thereof the words "subparagraph (iv) of this paragraph";

On page three, section one, line forty-nine, by striking out the words "paragraph (iii)" and inserting in lieu thereof the words "subparagraph (iii) of this paragraph";

On page seven, section six, line eleven, after the word “subdivision (a)” by inserting the words “of this subsection”;

On page seven, section six, line fifteen, after the word “subdivision (a)” by inserting the words “of this subsection”;

On page eight, section eight, lines twenty-five and twenty-six, by striking out the words “article nine of the uniform commercial code” and inserting in lieu thereof the words “§46-9-1 *et seq.* of this code”;

On page nine, section eight, line forty, by striking out the words “subparagraph (i) or (ii), paragraph A, subdivision (1), subsection (b) of this section” and inserting in lieu thereof the words “subdivision (1) or (2), subsection (b) of this section”;

On page nine, after section thirteen, by striking out the section heading and inserting a new section heading to read as follows:

**§40-1A-14. Application to and recognition of a foreign series organization.:**

On page ten, section fourteen, line four, by striking out the words “subdivision (2) of this subsection” and inserting in lieu thereof the words “the definition of a series organization in §40-1A-14 of this code”;

And,

On page ten, section fourteen, after line twenty, by inserting a new subsection, designated subsection (c), to read as follows:

(c) A series organization includes a foreign series limited liability company, or one or more protected series thereof, which is organized as a series organization under the laws of another state or jurisdiction, and shall be recognized as a foreign series limited liability company in this state pursuant to, and in compliance with the provisions of §31B-10-1 *et seq.* of this code.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4233), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4233) passed.

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

**Eng. Com. Sub. for House Bill 4233**—A Bill to amend and reenact §40-1A-1, §40-1A-2, §40-1A-4, §40-1A-5, §40-1A-6, and §40-1A-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §40-1A-13, §40-1A-14, and §40-1A-15, all relating generally to fraudulent transfers and voidable transactions; establishing that a presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence; providing that a creditor making a claim for relief has the burden of proving the elements of the claim for relief by a preponderance of the evidence; setting forth rules regarding the defenses, liability and protection of transferees; establishing the governing law; providing for application to series organizations; defining terms; providing that each series organization and each protected series of the organization is a separate person; providing that a series organization includes a foreign series limited liability company; providing for the limiting, modifying or superseding of the federal Electronic Signatures in Global and National Commerce Act; and adding and modifying definitions and headings.

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

**Eng. Com. Sub. for House Bill 4251**, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4251) passed.

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

**Eng. Com. Sub. for House Bill 4251**—A Bill to amend and reenact §18B-2A-1 of the Code of West Virginia, 1931, as amended, relating to certain higher education institution boards of governors membership; permitting officers, employees, or members of any other board of governors outside of this state and employees of any institution of higher education outside of this state to be appointed to a board of governors; and including, for institutions that have no classified employees, a member from the nonclassified employees.

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

**Eng. Com. Sub. for House Bill 4270**, Providing for the timely payment of moneys owed from oil and natural gas production.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4270) passed.

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

**Eng. Com. Sub. for House Bill 4270**—A Bill to amend and reenact §22-6-22 of the Code of West Virginia, 1931, as amended, and to amend said code by adding a new chapter, designated §37B-1-1, §37B-1-2, and §37B-1-3, all relating generally to real property; providing for quarterly reporting to the West Virginia Department of Environmental Protection and publication of same; providing rule-making authority; requiring specified information to be remitted with certain payments to interest owners; providing for written request in the event an interest owner does not receive the required information; providing for a period to provide the required information beginning when the operator or producer receives the written request for information; providing for a cause of action to enforce compliance; providing for the accumulation of proceeds under certain circumstances; providing for timely payment of moneys owed from oil and natural gas production; and establishing interest penalties for certain late payments.

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

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 4251**, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

Passed by the Senate in earlier proceedings today,

The bill still being in the possession of the Senate,

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4251) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4320**, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

On page four, section one hundred one, after line thirteen, by inserting a new subdivision, designated subdivision (9), to read as follows:

(9) Exercise authority over the content of electronic communications, as defined in 18 U.S.C. Section 2510(12) sent or received by the principal.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4320), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4320) passed with its title.

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

**Eng. House Bill 4324**, Relating to the employment of individuals by municipal paid fire departments under civil service.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment to bill pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

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

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-17. Form of application; age and residency requirements; exceptions.**

(a) The Firemen's Civil Service Commission in each municipality shall require individuals applying for admission to any competitive examination provided for under the civil service provisions of this article or under the rules of the commission to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

(1) His or her full name, residence, and post-office address;

(2) His or her United States citizenship, age, and the place and date of his or her birth;

(3) His or her state of health, and his or her physical capacity for the public service;

(4) His or her business and employments and residences for at least three previous years; and

(5) Any other information ~~as may~~ reasonably be required, touching upon the applicant's qualifications and fitness for the public service.

(b) Blank forms for the applications shall be furnished by the commission, without charge, to all individuals requesting the same.

(c) The commission may require, in connection with the application, certificates of citizens, physicians, and others, having pertinent knowledge concerning the applicant, as the good of the service ~~may require~~ requires.

(d) Except as provided in subsections (e) and (f) of this section, ~~no~~ the commission may not accept an application for original appointment ~~shall be received~~ if the individual applying is less than 18 years of age or more than 35 years of age at the date of his or her application.

(e) ~~In the event~~ If any applicant formerly served upon the paid fire department of the municipality to which he or she makes application for a period of more than one year, and resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant within a period of two years next preceding the date of his or her application, and at the time of his or her application resides within the corporate limits of the municipality in which the paid fire department to which he or she seeks appointment by reinstatement is located, then the individual ~~shall be~~ is eligible for appointment by reinstatement in the discretion of the Firemen's Civil Service Commission, even though the applicant ~~shall be~~ is over the age of 35 years, and the applicant, providing his or her former term of service so justifies, may be appointed by reinstatement to the paid fire department without a competitive examination. ~~but~~ The applicant shall undergo a medical examination; and if the individual ~~shall be~~ is so appointed by reinstatement to the paid fire department, he or she shall be the lowest in rank in

the department next above the probationers of the department and may not be entitled to seniority considerations.

(f) If an individual is presently employed by one paid fire department and is over the age of 35, he or she may make an application to another paid fire department if:

(1) The paid fire department to which he or she is applying is serving a municipality that has elected to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System created in §8-22A-1 *et seq.* of this code: *Provided*, That any individual applying pursuant to this subdivision is to be classified as a new employee for retirement purposes and ~~no~~ prior employment service ~~can~~ may not be transferred to the West Virginia Municipal Police Officers and Firefighters Retirement System; or

(2) The paid fire department to which he or she is applying is serving a municipality that has elected to participate in the West Virginia Public Employees Retirement System created in §5-10-1 *et seq.* of this code: *Provided*, That any individual applying pursuant to this subdivision is to be classified as a new employee for retirement purposes and ~~no~~ prior employment service ~~can~~ may not be transferred to the West Virginia Public Employees Retirement System, except for individuals and their prior employment service already credited to them in the West Virginia Public Employees Retirement System pursuant to §5-10-1 *et seq.* of this code.

(g) Individuals who are authorized to apply to a paid fire department pursuant to subsection (f) of this section shall be in the lowest rank of the department and ~~may not be~~ are not entitled to seniority considerations.

(h) Any applicant for original appointment ~~must have been a resident for one year, during some period of time prior to the date of his or her application~~ need not be a resident of the municipality or the county in which he or she seeks to become a member of the paid fire department. *Provided*, That if the commission determines it necessary it may consider for original appointment applicants who are not residents of the municipality but who have been residents of the county in which the municipality or any portion of the territory thereof is located for a period of at least one year.

**§8-15-20. Appointments from list of eligible applicants; special examinations for electricians or mechanics.**

(a) Every position, unless filled by promotion, reinstatement, or reduction, shall be filled only in the manner specified in this section. The appointing officer shall notify the firemen's civil service commission of any vacancy in a position which he or she desires to fill, and shall request the certification of ~~eligibles~~ eligible applicants. The commission shall ~~forthwith~~ immediately certify, from the eligible list, the names of the three individuals ~~thereon~~ on the eligible list who received the highest averages at preceding competitive examinations held under the civil service provisions of this article within a period of three years next preceding the date of the prospective appointment. The appointing officer shall, ~~thereupon~~, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three certified names ~~so certified~~: *Provided*, That ~~should he make objection if the appointing officer objects~~, to the commission, to one or more of these individuals, for any of the reasons stated in §8-15-19 of this code, and ~~should such the objection be~~ is sustained by the commission, after a public hearing along the lines of the hearing provided for in §8-15-19 of this code, if ~~any such a~~ a hearing is requested, the commission shall ~~thereupon~~ strike the name of ~~any such the~~ the individual from the eligible list, and certify the next highest name for each individual ~~so~~ stricken. As each subsequent vacancy occurs, in the

same or another position, precisely the same procedure shall be followed: *Provided, however,* That after any name has been rejected three times ~~rejected~~ for the same or another position in favor of a name or names below it on the same list, the ~~said~~ name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the ~~foregoing~~ provisions of this section. When an appointment is made under the provisions of this section it shall be, in the first instance, for the probationary period of six months, as provided in §8-15-16 of this code: *Provided further,* That in the event any position as an electrician or mechanic is to be filled in any paid fire department, then the examinations to be given to applicants for either position shall be ~~se~~ drawn as to test only the qualifications of ~~such~~ the applicants in regard to their ability as electricians or mechanics, ~~such~~ the examinations to be special examinations.

(b) If there are not enough eligible applicants to certify a list of three, then the appointing officer may appoint a qualified individual to fill the position.

On motion of Senator Weld, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4324) was reported by the Clerk and adopted:

On page three, section seventeen, subsection (h), by striking out the word "Any" and inserting in lieu thereof the words "Notwithstanding charter provisions to the contrary, any".

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

Having been engrossed, the bill (Eng. H. B. 4324), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4324) passed.

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

**Eng. Com. Sub. for House Bill 4338**—A Bill to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-1-5, §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, §25-1-22, of the Code of West Virginia, 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24 and §28-5-27, of said code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24, §31-20-27, §31-20-27a,

§31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, §62-12-15 and §62-12-25 of said code; to repeal §62-13-3, §62-13-4, §62-13-5 and §62-13-6a of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-1-6, §15A-2-1, §15A-2-2, §15A-2-3, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-3-6, §15A-3-7, §15A-3-8, §15A-3-9, §15A-3-10, §15A-3-11, §15A-3-12, §15A-3-13, §15A-3-14, §15A-3-15, §15A-3-16, §15A-3-17, §15A-3-18, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-4-6, §15A-4-7, §15A-4-8, §15A-4-9, §15A-4-10, §15A-4-11, §15A-4-12, §15A-4-13, §15A-4-14, §15A-4-15, §15A-4-16, §15A-4-17, §15A-4-18, §15A-4-19, §15A-4-20, §15A-4-21, §15A-5-1, §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-5-8, §15A-5-9, §15A-6-1, §15A-6-2, §15A-6-3, §15A-6-4, §15A-6-5, §15A-7-1, §15A-7-2, §15A-7-3, §15A-7-4, §15A-7-5, §15A-7-6, §15A-8-1, §15A-8-2, and §15A-8-3; to amend and reenact §19-12A-5 of said code,; and to amend and reenact §50-3-2 and §50-3-4a of said code, all relating generally to supervision of persons committed to the custody of the Division of Corrections, Division of Juvenile Services, and the Regional Jail and Correctional Facility Authority; setting forth rules of construction; defining terms; creating Division of Administrative Services within Department of Military Affairs and Public Safety; defining scope of duties for Division of Administrative Services; authorizing appointment of director; setting qualifications for director; providing authority and duties for director; authorizing director to enter into memorandum of understanding with certain agencies to provide services; transferring certain employees, responsibilities, equipment and records to Division of Administrative Services; providing for classified service coverage for certain employees; creating Division of Corrections and Rehabilitation within Department of Military Affairs and Public Safety; eliminating Division of Corrections and Division of Juvenile Services and transferring powers and authority to Division of Corrections and Rehabilitation; transferring certain powers and authority of Regional Jail and Correctional Facility Authority to Division of Corrections and Rehabilitation; setting forth purpose and legislative intent; requiring chapter be construed in favor of public safety; authorizing appointment of commissioner of Division of Corrections and Rehabilitation; requiring commissioner subscribe to oath and execute bond; abolishing office of Commissioner of Division of Corrections, Director of Juvenile Services, and Executive Director of Regional Jail and Correctional Facility Authority; vesting powers of abolished offices in office of commissioner of Division of Corrections and Rehabilitation; setting salary for commissioner; setting requirements for commissioner; setting powers and duties of commissioner; providing for the hiring of officers and employees of corrections institutions; providing authority for commissioner or designee to manage and administer certain affairs of correctional units and juvenile facilities under the division's jurisdiction; providing powers of superintendents of institutions or correctional units; requiring commissioner to investigate complaints made against superintendents or employees of institutions; requiring preemployment drug screening of prospective correctional employees; providing authority for superintendent and commissioner over employees; providing exceptions; authorizing hiring of correctional officer employees without regard to position on register; providing for compensation of employees; providing for reimbursement or provision of traveling and other expenses under certain circumstances; providing for certain reporting by commissioner and chief officers of institutions to State Auditor; prohibiting special compensation of officers and employees; providing penalties for violations of provision; setting forth certain law-enforcement powers of employees; establishing Corrections Special Operations Team; authorizing commissioner to prescribe design of employee uniforms; providing limitations on commissioner and municipalities with respect to uniform design; establishing criminal penalties for wearing or using uniform, badge, identification card or insignia with intent to deceive; establishing criminal penalty for falsely representing oneself as officer or employee of division; establishing criminal penalty for employee using position to threaten or coerce any other person to receive benefit; providing exceptions; identifying institutions to be managed by commissioner; authorizing certain

contracts; authorizing the establishment of certain work and study release units; authorizing contract with nonprofit or charitable entities; setting terms of placing person in half-way house or transitional housing facility; placing adult persons sentenced to incarceration under the jurisdiction of the commissioner in the custody of the commissioner; authorizing transfer of adult inmates among institutions; granting contracting authority to commissioner for county jails or other incarceration facilities; directing establishment of a per diem rate for felony sentenced inmates; authorizing transfer of mentally disturbed adult prisoners or inmates; directing commissioner evaluate all facilities for most appropriate space to house each type of inmate; requiring consultation with Juvenile Justice Commission regarding current or prospective juvenile facilities; requiring report on evaluation to Joint Committee on Government and Finance; prohibiting conversion of juvenile facilities to adult facilities or adult facilities to juvenile facilities absent legislative authorization; vesting title to certain properties in the state; making commissioner custodian of deeds; authorizing lease of West Virginia penitentiary in Moundsville, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; exempting division from purchasing; providing procedures to be followed when purchasing is done by division; providing conditions for emergency purchasing; authorizing certain agreements with medical schools and higher education institutions; authorizing mutual aid agreements, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; continuing certain funds from Regional Jail and Correctional Facility Authority; providing for transfer of fund administration from Regional Jail and Correctional Facility Authority or its executive director; limiting use of jail funds to certain operations and expenses; authorizing investment under certain circumstances; identifying contents of funds; authorizing certain expenditures of funds; requiring incarceration of persons by counties in jail facilities; providing exceptions; clarifying authority of circuit and magistrate courts with respect to detention and commitment; requiring payment by county or municipality for per-day cost of incarceration; providing for establishment of per-day cost; capping per-day cost for a period of time; providing conditions for calculating per-day cost; establishing period of time for which county is responsible for costs of housing and maintaining inmates in its facilities; directing preparation of a report on feasibility of phasing out per diem charges; directing contents of report; continuing Jail Operations Partial Reimbursement Fund; establishing source of revenues; providing for use of funds; providing for administration of fund; granting rule-making authority; granting authority to develop policies; continuing legislative rules and policies of former Division of Corrections, Division of Juvenile Services, and Regional Jail and Correctional Facility Authority; authorizing furlough programs; authorizing rule-making; providing certain parameters for furlough program; granting immunity, with certain limitations, to certain persons and entities for claims arising out of furlough program; authorizing electronic monitoring; requiring commissioner charge reasonable fee; providing exceptions; providing for deposit and use of fees; setting parameters for electronic devices; authorizing continuation and establishment of diagnostic and classification subdivisions; requiring all persons committed to the custody of the division to undergo diagnosis and classification; requiring division perform mental health preliminary screenings; authorizing commissioner to transfer inmates; providing conditions for transfer under certain circumstances; authorizing monitoring of inmate telephone calls, inmate mail, and inmate electronic correspondence; requiring notice to inmates of monitoring; providing procedures for and restrictions on monitoring; excepting communications to or from attorneys; requiring promulgation of policy directive establishing record-keeping procedures; providing for use of records when inmate is charged with crimes based on conversations; authorizing establishment of trustee accounts; providing for handling of money and personal property of inmates or residents; requiring certain incarcerated offenders make reimbursement toward cost of incarceration; requiring certain reports concerning the average cost per inmate; authorizing facility superintendent expend up to one half of inmate's money to satisfy certain obligations; providing for distribution of funds upon inmate departure or death; providing for notice of credit of money credited to former inmate or resident under certain circumstances; directing establishment

of inmate or resident benefit funds for each institution; requiring reports on inmate benefit funds; continuing special revenue account; identifying sources of moneys for inmate or resident benefit funds; providing for use of funds in inmate or resident benefit funds; requiring division assist inmates in developing financial plans to meet any child support obligations; directing deduction by superintendent from inmate earnings for all legitimate court-ordered financial obligations; providing for civil judgments awarded to inmate to be subject to deductions for child support, restitution or other court-ordered obligations; directing investment of remaining funds with Municipal Bond Commission; limiting reimbursement rate to medical service providers for services outside division facilities; authorizing assessment of certain reasonable charges against inmates for certain services provided by the state; providing exceptions to authority to assess charges; authorizing interpretive rules; directing preparation and preservation of records for indictment and conviction, or charges and adjudication, and a register containing certain information; authorizing establishment of plant for the manufacture of license plates, road signs, or markers; making it unlawful for state employee or official to obtain license plates, road signs, or markers other than through plant; prohibiting certain persons from making gifts to or receiving gifts from inmates or residents; directing commissioner promulgate disciplinary rules and policies; setting penalties for violations; requiring commutation of certain sentences for good conduct; providing exceptions; setting conditions and procedures for commutation of sentences; authorizing Governor to authorize commissioner to consent to transfer or exchange of inmates in his or her custody in accordance with treaty between United States and a foreign country; providing for handling of mentally ill patients; disallowing mentally ill patients being denied parole or a parole hearing based upon condition; providing for facts to be presented to superintendent if convicted person is believed to be mentally ill, intellectually disabled, or addicted; providing for application of transfer to be filed; providing for appointment of special counsel for convict who is indigent; providing for notice to convicted person; setting forth process after application for transfer is filed; authorizing establishment of work program for qualified inmates; setting conditions on work program; providing immunity for certain persons and entities; authorizing employment of Director of Employment and Director of Housing for released inmates; setting authority and duties of directors; directing commissioner establish Bureau of Prisons and Jails; directing appointment of assistant commissioner to oversee Bureau of Prisons and Jails; transferring duties and funds of Division of Corrections to Bureau of Prisons and Jails; directing appointment of superintendents for facilities within Bureau of Prisons and Jails; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; requiring commissioner to make space in every adult institution for both jail and prison populations; setting limitations on requirement to house both jail and prison populations in each adult institution; requiring division conduct pretrial risk assessment of person within three calendar days of arrest and placement in jail; directing pretrial risk assessment be provided to magistrate and circuit clerks; making pretrial risk assessment inadmissible evidence; requiring person committed to be housed in jail pay processing fee; directing where processing fee to be credited; directing refund of fee if person is not convicted; authorizing commissioner or employee to refuse certain offenders if offender appears to need medical attention; directing commissioner establish Bureau of Juvenile Services; transferring duties and funds of Division of Juvenile Services to Bureau of Juvenile Services; directing appointment of assistant commissioner to oversee Bureau of Juvenile Services; directing appointment of superintendents for facilities within Bureau of Juvenile Services; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; directing commissioner establish Bureau of Community Corrections;

directing appointment of assistant commissioner to oversee Bureau of Community Corrections; directing appointment of superintendents for facilities within Bureau of Community Corrections; requiring superintendents post bond; authorizing hiring of other assistants and employees by superintendents; providing for supervision of persons on probation or released on parole; directing rules regarding supervision of probationers and parolees; clarifying authority retained by Parole Board; setting powers and duties of state parole officers; authorizing issuance of certificates for state parole officers under certain conditions; continuing Parole Supervision Benefit Fund; authorizing use of money for payment to community corrections program; continuing Regional Jail and Correctional Facility Authority Board; continuing certain powers; transferring certain power and authority to Division of Corrections and Rehabilitation; abolishing certain powers; modifying composition of Regional Jail and Correctional Facility Authority Board; providing for appointment and qualifications of board members; providing for governance by and operation of board; directing authority review per diem cost set by state Budget Office; providing procedures if amount is challenged or believed incorrect; providing certain employees of State Board of Education not subject to supervision and approval of employees of division; making certain employees members of classified service; exempting Division of Corrections and Rehabilitation from requirement to buy certain products from Department of Agriculture; repealing provisions of code related to Division of Corrections; repealing provisions of code related to state correctional and penal institutions; repealing provisions of code related to West Virginia Regional Jail and Correctional Facility Authority; repealing provisions of code related to probation and parole; repealing provisions of code related to corrections management; updating code references; eliminating obsolete language; and making technical corrections.

On motion of Senator Ferns, the Senate reconsidered its action by which immediately hereinbefore it adopted the Government Organization committee amendment to the title of Engrossed House Bill 4324.

The vote thereon having been reconsidered,

[CLERK'S NOTE: The title amendment read into the record and adopted for Engrossed House Bill 4324 was incorrect and was a title amendment for a different bill.]

Thereafter,

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

**Eng. Com. Sub. for House Bill 4338**, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4338 pass?"

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

The nays were: Ojeda—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4338) passed.

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

**Eng. Com. Sub. for House Bill 4338**—A Bill to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-1-5, §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, §25-1-22, of the Code of West Virginia, 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24 and §28-5-27, of said code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24, §31-20-27, §31-20-27a, §31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, §62-12-15 and §62-12-25 of said code; to repeal §62-13-3, §62-13-4, §62-13-5 and §62-13-6a of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-1-6, §15A-2-1, §15A-2-2, §15A-2-3, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-3-6, §15A-3-7, §15A-3-8, §15A-3-9, §15A-3-10, §15A-3-11, §15A-3-12, §15A-3-13, §15A-3-14, §15A-3-15, §15A-3-16, §15A-3-17, §15A-3-18, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-4-6, §15A-4-7, §15A-4-8, §15A-4-9, §15A-4-10, §15A-4-11, §15A-4-12, §15A-4-13, §15A-4-14, §15A-4-15, §15A-4-16, §15A-4-17, §15A-4-18, §15A-4-19, §15A-4-20, §15A-4-21, §15A-5-1, §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-5-8, §15A-5-9, §15A-6-1, §15A-6-2, §15A-6-3, §15A-6-4, §15A-6-5, §15A-7-1, §15A-7-2, §15A-7-3, §15A-7-4, §15A-7-5, §15A-7-6, §15A-8-1, §15A-8-2, and §15A-8-3; to amend and reenact §19-12A-5 of said code,; and to amend and reenact §50-3-2 and §50-3-4a of said code, all relating generally to supervision of persons committed to the custody of the Division of Corrections, Division of Juvenile Services, and the Regional Jail and Correctional Facility Authority; setting forth rules of construction; defining terms; creating Division of Administrative Services within Department of Military Affairs and Public Safety; defining scope of duties for Division of Administrative Services; authorizing appointment of director; setting qualifications for director; providing authority and duties for director; authorizing director to enter into memorandum of understanding with certain agencies to provide services; transferring certain employees, responsibilities, equipment and records to Division of Administrative Services; providing for classified service coverage for certain employees; creating Division of Corrections and Rehabilitation within Department of Military Affairs and Public Safety; eliminating Division of Corrections and Division of Juvenile Services and transferring powers and authority to Division of Corrections and Rehabilitation; transferring certain powers and authority of Regional Jail and Correctional Facility Authority to Division of Corrections and Rehabilitation; setting forth purpose and legislative intent; requiring chapter be construed in favor of public safety; authorizing appointment of commissioner of Division of Corrections and Rehabilitation; requiring commissioner subscribe to oath and execute bond; abolishing office of Commissioner of Division of Corrections, Director of Juvenile Services, and Executive Director of Regional Jail and Correctional Facility Authority; vesting powers of abolished offices in office of commissioner of Division of Corrections and Rehabilitation; setting salary for commissioner; setting requirements

for commissioner; setting powers and duties of commissioner; providing for the hiring of officers and employees of corrections institutions; providing authority for commissioner or designee to manage and administer certain affairs of correctional units and juvenile facilities under the division's jurisdiction; providing powers of superintendents of institutions or correctional units; requiring commissioner to investigate complaints made against superintendents or employees of institutions; requiring preemployment drug screening of prospective correctional employees; providing authority for superintendent and commissioner over employees; providing exceptions; authorizing hiring of correctional officer employees without regard to position on register; providing for compensation of employees; providing for reimbursement or provision of traveling and other expenses under certain circumstances; providing for certain reporting by commissioner and chief officers of institutions to State Auditor; prohibiting special compensation of officers and employees; providing penalties for violations of provision; setting forth certain law-enforcement powers of employees; establishing Corrections Special Operations Team; authorizing commissioner to prescribe design of employee uniforms; providing limitations on commissioner and municipalities with respect to uniform design; establishing criminal penalties for wearing or using uniform, badge, identification card or insignia with intent to deceive; establishing criminal penalty for falsely representing oneself as officer or employee of division; establishing criminal penalty for employee using position to threaten or coerce any other person to receive benefit; providing exceptions; identifying institutions to be managed by commissioner; authorizing certain contracts; authorizing the establishment of certain work and study release units; authorizing contract with nonprofit or charitable entities; setting terms of placing person in half-way house or transitional housing facility; placing adult persons sentenced to incarceration under the jurisdiction of the commissioner in the custody of the commissioner; authorizing transfer of adult inmates among institutions; granting contracting authority to commissioner for county jails or other incarceration facilities; directing establishment of a per diem rate for felony sentenced inmates; authorizing transfer of mentally disturbed adult prisoners or inmates; directing commissioner evaluate all facilities for most appropriate space to house each type of inmate; requiring consultation with Juvenile Justice Commission regarding current or prospective juvenile facilities; requiring report on evaluation to Joint Committee on Government and Finance; prohibiting conversion of juvenile facilities to adult facilities or adult facilities to juvenile facilities absent legislative authorization; vesting title to certain properties in the state; making commissioner custodian of deeds; authorizing lease of West Virginia penitentiary in Moundsville, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; exempting division from purchasing; providing procedures to be followed when purchasing is done by division; providing conditions for emergency purchasing; authorizing certain agreements with medical schools and higher education institutions; authorizing mutual aid agreements, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; continuing certain funds from Regional Jail and Correctional Facility Authority; providing for transfer of fund administration from Regional Jail and Correctional Facility Authority or its executive director; limiting use of jail funds to certain operations and expenses; authorizing investment under certain circumstances; identifying contents of funds; authorizing certain expenditures of funds; requiring incarceration of persons by counties in jail facilities; providing exceptions; clarifying authority of circuit and magistrate courts with respect to detention and commitment; requiring payment by county or municipality for per-day cost of incarceration; providing for establishment of per-day cost; capping per-day cost for a period of time; providing conditions for calculating per-day cost; establishing period of time for which county is responsible for costs of housing and maintaining inmates in its facilities; directing preparation of a report on feasibility of phasing out per diem charges; directing contents of report; continuing Jail Operations Partial Reimbursement Fund; establishing source of revenues; providing for use of funds; providing for administration of fund; granting rule-making authority; granting authority to develop policies; continuing legislative rules and policies of former Division of Corrections, Division of Juvenile Services, and Regional Jail

and Correctional Facility Authority; authorizing furlough programs; authorizing rule-making; providing certain parameters for furlough program; granting immunity, with certain limitations, to certain persons and entities for claims arising out of furlough program; authorizing electronic monitoring; requiring commissioner charge reasonable fee; providing exceptions; providing for deposit and use of fees; setting parameters for electronic devices; authorizing continuation and establishment of diagnostic and classification subdivisions; requiring all persons committed to the custody of the division to undergo diagnosis and classification; requiring division perform mental health preliminary screenings; authorizing commissioner to transfer inmates; providing conditions for transfer under certain circumstances; authorizing monitoring of inmate telephone calls, inmate mail, and inmate electronic correspondence; requiring notice to inmates of monitoring; providing procedures for and restrictions on monitoring; excepting communications to or from attorneys; requiring promulgation of policy directive establishing record-keeping procedures; providing for use of records when inmate is charged with crimes based on conversations; authorizing establishment of trustee accounts; providing for handling of money and personal property of inmates or residents; requiring certain incarcerated offenders make reimbursement toward cost of incarceration; requiring certain reports concerning the average cost per inmate; authorizing facility superintendent expend up to one half of inmate's money to satisfy certain obligations; providing for distribution of funds upon inmate departure or death; providing for notice of credit of money credited to former inmate or resident under certain circumstances; directing establishment of inmate or resident benefit funds for each institution; requiring reports on inmate benefit funds; continuing special revenue account; identifying sources of moneys for inmate or resident benefit funds; providing for use of funds in inmate or resident benefit funds; requiring division assist inmates in developing financial plans to meet any child support obligations; directing deduction by superintendent from inmate earnings for all legitimate court-ordered financial obligations; providing for civil judgments awarded to inmate to be subject to deductions for child support, restitution or other court-ordered obligations; directing investment of remaining funds with Municipal Bond Commission; limiting reimbursement rate to medical service providers for services outside division facilities; authorizing assessment of certain reasonable charges against inmates for certain services provided by the state; providing exceptions to authority to assess charges; authorizing interpretive rules; directing preparation and preservation of records for indictment and conviction, or charges and adjudication, and a register containing certain information; authorizing establishment of plant for the manufacture of license plates, road signs, or markers; making it unlawful for state employee or official to obtain license plates, road signs, or markers other than through plant; prohibiting certain persons from making gifts to or receiving gifts from inmates or residents; directing commissioner promulgate disciplinary rules and policies; setting penalties for violations; requiring commutation of certain sentences for good conduct; providing exceptions; setting conditions and procedures for commutation of sentences; authorizing Governor to authorize commissioner to consent to transfer or exchange of inmates in his or her custody in accordance with treaty between United States and a foreign country; providing for handling of mentally ill patients; disallowing mentally ill patients being denied parole or a parole hearing based upon condition; providing for facts to be presented to superintendent if convicted person is believed to be mentally ill, intellectually disabled, or addicted; providing for application of transfer to be filed; providing for appointment of special counsel for convict who is indigent; providing for notice to convicted person; setting forth process after application for transfer is filed; authorizing establishment of work program for qualified inmates; setting conditions on work program; providing immunity for certain persons and entities; authorizing employment of Director of Employment and Director of Housing for released inmates; setting authority and duties of directors; directing commissioner establish Bureau of Prisons and Jails; directing appointment of assistant commissioner to oversee Bureau of Prisons and Jails; transferring duties and funds of Division of Corrections to Bureau of Prisons and Jails; directing appointment of superintendents for facilities within Bureau of Prisons and Jails; requiring superintendents post bond; setting

authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; requiring commissioner to make space in every adult institution for both jail and prison populations; setting limitations on requirement to house both jail and prison populations in each adult institution; requiring division conduct pretrial risk assessment of person within three calendar days of arrest and placement in jail; directing pretrial risk assessment be provided to magistrate and circuit clerks; making pretrial risk assessment inadmissible evidence; requiring person committed to be housed in jail pay processing fee; directing where processing fee to be credited; directing refund of fee if person is not convicted; authorizing commissioner or employee to refuse certain offenders if offender appears to need medical attention; directing commissioner establish Bureau of Juvenile Services; transferring duties and funds of Division of Juvenile Services to Bureau of Juvenile Services; directing appointment of assistant commissioner to oversee Bureau of Juvenile Services; directing appointment of superintendents for facilities within Bureau of Juvenile Services; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; directing commissioner establish Bureau of Community Corrections; directing appointment of assistant commissioner to oversee Bureau of Community Corrections; directing appointment of superintendents for facilities within Bureau of Community Corrections; requiring superintendents post bond; authorizing hiring of other assistants and employees by superintendents; providing for supervision of persons on probation or released on parole; directing rules regarding supervision of probationers and parolees; clarifying authority retained by Parole Board; setting powers and duties of state parole officers; authorizing issuance of certificates for state parole officers under certain conditions; continuing Parole Supervision Benefit Fund; authorizing use of money for payment to community corrections program; continuing Regional Jail and Correctional Facility Authority Board; continuing certain powers; transferring certain power and authority to Division of Corrections and Rehabilitation; abolishing certain powers; modifying composition of Regional Jail and Correctional Facility Authority Board; providing for appointment and qualifications of board members; providing for governance by and operation of board; directing authority review per diem cost set by state Budget Office; providing procedures if amount is challenged or believed incorrect; providing certain employees of State Board of Education not subject to supervision and approval of employees of division; making certain employees members of classified service; exempting Division of Corrections and Rehabilitation from requirement to buy certain products from Department of Agriculture; repealing provisions of code related to Division of Corrections; repealing provisions of code related to state correctional and penal institutions; repealing provisions of code related to West Virginia Regional Jail and Correctional Facility Authority; repealing provisions of code related to probation and parole; repealing provisions of code related to corrections management; updating code references; eliminating obsolete language; and making technical corrections.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Ojeda—1.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4338) takes effect July 1, 2018.

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

**Eng. Com. Sub. for House Bill 4345**, Relating to limitations on permits for growers, processors and dispensaries of medical cannabis.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect and the unreported Judiciary committee amendment pending.

**Eng. Com. Sub. for House Bill 4350**, Eliminating the regulation of upholstery.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Gaunch, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to bill was withdrawn.

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

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

**ARTICLE 1A. REGULATION AND CONTROL OF BEDDING AND UPHOLSTERY BUSINESSES.**

**§47-1A-11. Statements required on tags to be affixed to bedding.**

(1) Every article of bedding made for sale, sold, or offered for sale shall have attached thereto a tag on which is stated the name of the filling material used, that such material used is new or secondhand and, when required to be sterilized, that such material has been sterilized and the number of the sterilization permit. Such tag shall also contain the name and address of the maker or the vendor and the registry number, as hereinafter provided, of the maker.

~~(2) Every remade or renovated article of bedding not for sale, before returned to the owner for his or her own use, shall have attached thereto a tag which, in addition to the statements hereinabove required, shall state the name and address of the remaker or renovator or the statement "remade and renovated for" followed by the name and address of the person for whom the article of bedding is renovated.~~

~~(3)~~ (2) In the description of the filling material used on any tag attached to an article of bedding, no term or designation intended or likely to mislead shall be used; but where such article contains more than one material, the amount of such materials shall be stated on the tag and there shall be no variance in excess of 10 percent from the amount stated on the tag: *Provided, however,* That no variance shall be allowed for filling material which is described as “all,” “pure,” “100%” or terms of similar import.

~~(4)~~ (3) A complete secondhand article of bedding which has not been remade or renovated may be sold “as is” without being sterilized, but the original tag shall be removed by the vendor and he or she shall attach a tag stating that the article is secondhand – “contents unknown.” This requirement shall not apply to articles sold at public auction, the sale of antique furniture, or to a private sale from the home of the owner direct to the purchaser: *Provided, however,* That the exceptions herein stated shall not authorize the sale of an article of bedding that has been exposed to infectious or contagious disease and which, after such exposure, has not been sterilized and approved for use.

#### **§47-1A-14. Annual registration and permit fees.**

(a) The annual registration fee for all manufacturers shipping or selling articles of bedding ~~and for upholsterers or renovators, as defined in this article,~~ in the State of West Virginia shall be \$90, payable on the first day of the fiscal year. Any manufacturer, ~~upholsterer or renovator~~ who submits an annual registration fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(b) The annual sterilizer permit fee shall be \$90, payable on the first day of the fiscal year. Any sterilizer who submits an annual permit fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(c) The fee for reissuing a revoked or expired registration or permit shall be \$90.

(d) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the Bedding and Upholstery Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division’s funding obligation-: *Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.*

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4350), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4350) passed.

At the request of Senator Ferns, and by unanimous consent, the unreported Government Organization committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 4350**—A Bill to amend reenact §47-1A-11 and §47-1A-14 of the Code of West Virginia, 1931, as amended, all relating to eliminating the regulation of upholsterers by the Commissioner of Labor; removing tagging requirements for upholsterers; and eliminating annual registration and permit fees for upholsterers.

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

**Eng. House Bill 4389**, Expiring funds to the Enterprise Resource Planning System Fund.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4389) passed.

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

**Eng. House Bill 4389**—A Bill expiring funds to the balance of the West Virginia Enterprise Resource Planning Board - Enterprise Resource Planning System Fund, fund 9080, fiscal year 2018, organization 0947, in the amount of \$2,266,000 and to the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund \*\*\*\*, fiscal year 2018, organization 0804 in the amount of \$1,500,00; from the Auditor's Office – Securities Regulation Fund, fund 1225, fiscal year 2018, organization 1200, and from the Treasurer's Office, Banking Services Expense Fund, fund 1322, fiscal year 2018, organization 1300, by supplementing and amending chapter one, Acts of the Legislature, 1st extraordinary session, 2017, known as the budget bill.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4389) takes effect from passage.

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

**Eng. Com. Sub. for House Bill 4392**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4392) passed with its title.

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

**Eng. Com. Sub. for House Bill 4394**, Relating to forest fires.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4394) passed.

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

**Eng. Com. Sub. for House Bill 4394**—A Bill to amend and reenact §20-3-5 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §20-3-5a, all relating to forest fires; requiring all flammable material must be removed from the area immediately surrounding material to be burned for a distance which ensures the fire will at all times be contained; requiring that a safety strip shall in no event be less than ten feet wide; establishing a crime for any person or employee who sets or causes to be set any fire which escapes the safety strip and causes damage to the lands of another; setting forth criminal penalties; creating a prescribed fire program; defining terms; requiring Director of the Division of Natural Resources to develop a certification process and prescribed burn course; setting forth requirements for certification as a certified prescribed fire manager; prescribing manner in which prescribed burn must be performed; setting forth violations which may result in revocation of certification; and authorizing rule-making.

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

**Eng. Com. Sub. for House Bill 4424**, Providing that the Ethics Act applies to certain persons providing services without pay to state elected officials.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4424) passed.

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

**Eng. Com. Sub. for House Bill 4424**—A Bill to amend and reenact §6B-1-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6B-2-5 of said code, all relating to providing that the West Virginia Governmental Ethics Act applies to public servant volunteers; defining terms; and providing that the requirements of the West Virginia Governmental Ethics Act apply to a person who is granted or vested with powers, privileges or authorities ordinarily reserved to public officials or who performs services, without compensation, on behalf of a public official.

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

**Eng. Com. Sub. for House Bill 4428**, Allowing training hours earned through public school education or apprenticeship to count towards an applicant's occupational certification.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4428) passed.

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

**Eng. Com. Sub. for House Bill 4428**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15g; to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, and §18-33-3; to amend said code by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4, and §21-1E-5; and to amend said code by adding thereto a new article designated §30-1E-1, §30-1E-2, §30-1E-3, and §30-1E-4, all relating to addressing workforce needs; requiring county boards of education to permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools under certain conditions; defining and setting forth purpose of Governor's Workforce Credential; setting forth requirements for qualifying for Credential; requiring that any student fulfilling the requirements of the Credential and meeting graduation requirements receive individual recognition at their high school graduation ceremony; requiring standards and procedures for applying career technical training acquired in public schools, apprenticeships and training programs toward occupational testing, certification and/or licensure; establishing purpose; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor and by licensing boards and commissions; requiring certain career and education related information be provided to high school students; and requiring Commissioner of Labor rule to include guidelines for collection and dissemination of information in manner easily accessible to both students and their parents.

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

**Eng. Com. Sub. for House Bill 4431**, Establishing the Mountaineer Trail Network Recreation Authority.

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

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

The nays were: None.

Absent: Clements and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4431) passed.

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

**Eng. Com. Sub. for House Bill 4431**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, §20-14A-11, §20-14A-12, and §20-14A-13, all relating generally to establishing the Mountaineer Trail Network Recreation Authority; providing a statement of legislative purpose and findings; defining terms; creating the Mountaineer Trail Network Recreation Authority, which is a public corporation and joint development entity of certain participating counties; providing for appointment of individuals to the board of the authority and the filling of vacancies in the board; prescribing the terms of appointment; requiring quarterly meetings of the board; describing how quorum is established; authorizing the board to promulgate bylaws and rules; providing that the authority is subject to freedom of information act laws; describing the powers and duties of the authority, acting through its board; requiring the board to appoint an executive director; describing powers and duties of the executive director; authorizing employment of staff; requiring creation of an annual budget; providing for payment of authority expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of funds received from the Legislature; establishing prohibited actions by users of recreation area land and providing criminal penalties; limiting the liability of landowners of land used by the Authority; setting forth purchasing and bidding procedures for contracts and purchases by the Authority; providing criminal penalties for violation of purchasing and bidding requirements; prohibiting certain purchasing contracts with vendors that create conflicts of interest; providing criminal penalties for entering into prohibited purchasing contracts creating conflicts of interest; providing civil remedies for participating counties challenging purchasing contracts violating purchasing or bidding requirements or conflict of interest prohibitions; providing a process for four or more contiguous counties in the state to form a separate and distinct regional Mountaineer Trail Network Recreation Authority; providing that a regional Mountaineer Trail Network Recreation Authority must operate in compliance with all requirements applying to the Mountaineer Trail Network Recreation Authority; providing that any other provisions in the new article relating to requirements, limitations and privileges of a user, the board, participating landowners, or participating counties of the Mountaineer Trail Network Recreation Authority shall apply to a user, the board, a participating landowner, or a participating county of a regional Mountaineer Trail Network Recreation Authority with respect to the separate and distinct regional authority area; and providing for severability.

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

**Eng. Com. Sub. for House Bill 4447**, Providing for a uniform and efficient system of broadband conduit installation.

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

Senator Ferns requested unanimous consent, that further consideration of the bill be deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4217, already placed in that position.

Which consent was not granted, Senator Plymale objecting.

The question now being on the passage of Engrossed Committee Substitute for House Bill 4447.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4447 pass?”

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

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4447) passed.

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

**Eng. Com. Sub. for House Bill 4447**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6, §17-2E-7, and §17-2E-8, all relating to providing a uniform and efficient system of broadband conduit installation coinciding with the construction, maintenance, or improvement of highways and rights-of-way under the oversight of the Division of Highways; making legislative findings; defining terms; providing procedures for broadband conduit installation in rights-of-way; providing for highway safety guidelines; establishing a procedure for joint use between telecommunications carriers; setting forth a procedure for monetary and in-kind compensation; setting forth standards to be utilized in agreements entered into by the Division of Highways and two or more telecommunications carriers in a single trench; and providing that existing rules, policies, and procedures of the Division of Highways and United States Code shall control.

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

**Eng. House Bill 4465**, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

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

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

**Eng. House Bill 4486**, Relating to persons required to obtain a license to engage in the business of currency exchange.

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

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

The nays were: None.

Absent: Beach and Mann—2.

Excused: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4486) passed with its title.

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

**Eng. House Bill 4488**, Relating to the Hatfield-McCoy Recreation Authority.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

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

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 4488), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4488 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Maroney, Maynard, Ojeda, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Plymale—1.

Absent: Karnes and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4488) passed with its title.

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

**Eng. Com. Sub. for House Bill 4524**, Establishing guidelines for the substitution of certain biological pharmaceuticals.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4524 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4524) passed.

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

**Eng. Com. Sub. for House Bill 4524**—A Bill to amend the Code of West Virginia, 1931, as amended, by enacting a new section designated as § 30-5-12c relating to establishing guidelines for the substitution of certain biological pharmaceuticals by pharmacists; defining terms; providing for guidelines relating to substitution of interchangeable biological products; establishing communication requirements between the pharmacists and prescriber relating to substitution of interchangeable biological products; requiring maintenance of records relating to biological products dispensed for at least two years; providing for emergency rules; establishing manufacturing standards; clarifying process for complaints; and providing for immunity for certain actions.

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

**Eng. Com. Sub. for House Bill 4558**, Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4558) passed with its title.

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

**Eng. Com. Sub. for House Bill 4603**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4603) passed.

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

**Eng. Com. Sub. for House Bill 4603**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1 and §55-7K-2, relating to providing immunity from civil liability to certain facilities, including their directors, officers, employees, and agents, providing crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdose services on a short-term basis; providing an effective date; and providing that the provisions of this article are to operate in addition to, and not in derogation of, any of the provisions contained in the Medical Professional Liability Act.

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

**Eng. House Bill 4628**, Relating to authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to January 1, 2019.

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

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

The nays were: Sypolt—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4628) passed with its title.

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

**Eng. House Bill 4629**, Relating to broadband enhancement and expansion policies generally.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4629) passed.

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

**Eng. House Bill 4629**—A Bill to repeal §31G-1-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §31G-2-1 of said code; and to amend said code by adding thereto a new section, designated §31G-4-4, all relating to broadband enhancement and expansion policies generally; repealing language relating to pilot project for cooperative associations by political subdivisions; providing that a political subdivision of this state may be a qualified person for the purposes of forming a cooperative association; and establishing Public Service Commission jurisdiction over make-ready pole access within the state.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4629) takes effect from passage.

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

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 4006**, Revising the processes through which professional development is delivered for those who provide public education.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

The question being "Shall Engrossed Committee Substitute for House Bill 4006 pass?"

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4006 pass?"

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

The nays were: Baldwin, Beach, Drennan, Facemire, Gaunch, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Unger, and Woelfel—15.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4006) passed.

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

**Eng. Com. Sub. for House Bill 4006**—A Bill to repeal §10-5-2a of the Code of West Virginia, 1931, as amended; to repeal §18-2I-3 of said code; to repeal §18A-3-2d of said code; to repeal §18A-3A-1, §18A-3A-2, §18A-3A-2b, §18A-3A-3 and §18A-3A-5 of said code; to repeal §18B-11-4 and §18B-11-6 of said code; to amend and reenact §4-13-2 of said code; to amend and reenact §5-26A-3 of said code; to amend and reenact §5B-2C-6 of said code; to amend and reenact §5F-1-2 of said code; to amend said code by adding thereto a new section, designated §5F-1-6; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §18-2I-1, §18-2I-2 and §18-2I-4 of said code; to amend and reenact §18-10A-1, §18-10A-2, §18-10A-3, §18-10A-6a and §18-10A-12 of said code; to amend and reenact §18-30-4 of said code; to amend and reenact §18A-2-9 and §18A-2-12 of said code; to amend and reenact §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of said code; to amend and reenact §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code; to amend and reenact §18B-1B-2 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-16-5 and §18B-16-8 of said code; to amend and reenact §18B-18B-1 of said code; and to amend and reenact §29-24-3 and §29-24-5 of said code, all relating to revising the processes through which professional development is delivered for those who provide public education in this state, including improvement of the focus on school-level continuous improvement processes led by the principal, generally; eliminating administrative offices, duplicative programs and obsolete provisions; repealing provisions related to creation and duties of distance learning coordinating council; repealing provisions related to annual state board professional development master plan; repealing provisions related to beginning principal internships; repealing provisions related to

center for professional development and principals academy curriculum; repealing provisions related to center for development professional development project; repealing provisions related to principals academy establishment, mission, required attendance and employment of coordinator; repealing provisions related to pilot program of delivering educational services via distance learning; repealing provisions related to creation of depositories for assistive devices and services at two colleges or universities; repealing provisions creating the National Institute For Teaching Excellence and its governing board; modifying membership of Sesquicentennial of the American Civil War Commission; modifying membership of Commission for National and Community Service; removing Department of Education and the Arts as option to provide technical support to the Academy of Science and Technology in preparation of annual report; eliminating Department of Education and the Arts as executive department headed by secretary; establishing internal effective date; transferring Division of Culture and History and Division of Rehabilitation Services to Department of Commerce; making the Educational Broadcasting Authority and Library Commission each an independent agency within executive branch; correcting names of agencies; eliminating salary of Secretary of Education and the Arts; modifying the scope and goals of the system for coordination and delivery of professional development to be instituted by State Board of Education; modifying legislative findings with respect to professional development; eliminating requirement for State Board of Education master plan for professional development; requiring State Board of Education rule to include process for aggregating school and system strategic plan information to assist design and delivery of professional development; transferring the Center for Professional Development to be under the authority and control of the State Board of Education; replacing references to the secretary and the Department of Education and the Arts in rehabilitation and vocational services related statutes; modifying membership of College Prepaid Tuition and Savings Program Board; including instructional leadership among the responsibilities of principals and requiring course work in instructional leadership and related topics as prerequisite for administrative certification; moving from a precertification requirement to a pre-employment requirement that principals, assistant principals and administrators complete education and training in evaluation skills; deleting provisions proscribing limitations on certain rights and privileges of principals and assistant principals as teachers; removing requirements for interaction between State Board Of Education and Center for Professional Development regarding performance evaluations; removing proscription of issuance or renewal of certain administrative certificate; removing requirement for State Board Of Education consultation with Secretary of Education and Arts and Chancellor for Higher Education prior to exercise of authority over education; adding within standards for education of professional educators requirement providing for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America; eliminating references to regional education service agencies; removing requirement for State Board of Education to consult with Secretary of Education and the Arts and the Chancellor of Higher Education; removing provisions related to required training and professional development of principals through principals academy; adding instructional leadership and management techniques to required minimum standards for rule governing training of principals; removing language relating to waivers, ineligibility, progress tracking and expenses relating to training of principals; requiring county professional staff development councils to base proposals for staff development on analysis of individual and collective need indicated in school's strategic plans; incorporating development of certain teachers, principals, assistant principals, vocational administrators and others in the provisions for a comprehensive system to improve teaching and learning; making legislative finding that professional development resources must be focused rather than increased; removing obsolete provisions related to phased implementation of provisions for professional personnel evaluations; eliminating requirement for five percent of evaluations to be based on state summative assessment and increasing percent based on evidence of student learning by five percent; incorporating principals into the

comprehensive system of support for improved professional performance; requiring deficiencies identified through personnel evaluations to be incorporated in strategic plans for continuous improvement; removing language requiring posting and other provisions relating to employment; restricting certain appropriations for certain activities; modifying membership and selection process for members of Higher Education Policy Commission; modifying membership of Workforce Development Initiative Program Advisory Committee; updating agency references and removing Secretary of Education and the Arts with respect to rural health initiative; modifying membership of Science and Research Council; transferring certain references and responsibilities to Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities Board to Secretary of Commerce; directing the adoption and promulgation of rules and guidelines; and making consequential changes incident to the elimination of agencies or programs or the modification of duties, responsibilities and functions.

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

Action as to Engrossed Committee Substitute for House Bill 4006 have been concluded, the Senate proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4217**, Permitting an attending physician to obtain a patient's autopsy report.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

At the request of Senator Takubo, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section ten, line thirty, by striking out, "§49-5D-3" and inserting in lieu thereof the following, "§49-4-402";

And,

On page two, section ten, line forty-two, by striking out "is empowered to" and inserting in lieu thereof the word, "may".

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4217), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4217) passed with its title.

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

The Senate proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 4607**, Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails.

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

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

On page four, section two, line eighty-eight by striking out the word “drones” and inserting in lieu thereof the words “an unmanned aircraft system”;

On page four, section two, line eighty-nine, by striking out the word “drone” and inserting in lieu thereof the words “unmanned aircraft system”;

On page four, section two, line ninety-one, by striking out the word “drone” and inserting in lieu thereof the words “unmanned aircraft system”;

On page four, section two, line ninety-four, by striking out the word “drone” and inserting in lieu thereof the words “unmanned aircraft system”;

And,

On page four, section two, line ninety-five, by striking out the word “drones” and inserting in lieu thereof the words “an unmanned aircraft system”.

The bill (Eng. Com. Sub. for H. B. 4607), as amended, was then ordered to third reading.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill 582**, Allowing candidate for political party executive committee serve as election official.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Lane, Capito, and Miller.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Clements, Maroney, and Baldwin.

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

The Senate proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 4:54 p.m. today:

**Eng. Com. Sub. for Senate Bill 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs

The Clerk announced the following conference committee report had been filed at 4:55 p.m. today:

**Eng. Com. Sub. for House Bill 4186**, Relating generally to guaranteed asset protection waivers.

Without objection, the Senate returned to the third order of business.

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

**Eng. Senate Bill 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

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

## **CHAPTER 11. TAXATION**

### **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

**§11-15-4c. Collection of fee in addition to the consumers sales tax for sales of mobile factory-built homes; deposit of additional fee in West Virginia Affordable Housing Trust Fund.**

(a) There is imposed, in addition to the sales tax imposed by the provisions of this article and §11-15A-1 et seq. of this code, a fee of \$20 on all sales by licensed dealers of factory-built homes as that term is defined in §37-15-2 of this code to be collected as provided in §11-15B -1 et seq. of this code and remitted to the Tax Commissioner to be deposited by the commissioner in the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund, as provided in ~~§31-18D-1 et seq.~~ §31-18-20d of this code.

(b) The moneys collected from this additional fee shall be segregated from other funds in the ~~West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund.

## ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

### §11-22-2. Rate of tax; when and by whom payable; additional county tax.

(a) Every person who delivers, accepts or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code. The state tax is payable at the time of delivery, acceptance or presenting for recording of the document. In addition to the state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund as provided in ~~§31-18D-1 et seq.~~ §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from other funds in the ~~West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund. The West Virginia Housing Development Fund as fiscal agent of the ~~West Virginia Affordable Housing Trust Fund~~ shall publish monthly on the Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including the group receiving funds, their location and any contractor awarded the construction contract. ~~Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual report to the Joint Committee on Government and Finance before December 1, 2007, and each year thereafter~~

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or fraction thereof as represented by such document as defined in ~~section one of this article~~ §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document as defined in ~~section one of this~~

~~article §11-22-1 of this code:~~ *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than thirty days nor more than sixty days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

#### §31-18-3. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Affordable Housing Fund" means the affordable housing fund created and established by the Housing Development Fund in accordance with §31-18-20d of this code.

~~(1)~~ (2) "Annual sinking fund payment" means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond.

~~(2)~~ (3) "Development costs" means the costs approved by the Housing Development Fund as appropriate expenditures by the Housing Development Fund or by sponsors, for land development, residential housing, or nonresidential projects within this state, including, but not limited to:

(a) Payments for options to purchase proposed sites, necessary easements and other related property rights, deposits on contracts of purchase, or, with prior approval of the Housing Development Fund, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorneys' fees, utility and governmental application and filing fees and expenses, project manager and clerical staff salaries, office rent and other incidental expenses;

(c) Payment of fees and expenses for preliminary feasibility studies and costs estimates and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses; and

(e) Necessary application, approval and other fees.

~~(3)~~ (4) "Eligible persons and families" means:

(a) Persons and families of low and moderate income; or

(b) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent and safe residential housing available at prices or rentals which persons and families of low and moderate income can afford; or

(c) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated multifamily rental housing or new, rehabilitated or existing home ownership housing in the state for occupancy by them will further economic growth, increase the housing stock in the state by eliminating substandard or deteriorating housing conditions, or provide additional housing opportunities in the state; or

(d) Persons who because of age or physical disability are found and determined by the Housing Development Fund, by resolution, to require residential housing of a special location or design in order to provide them with sanitary, decent and safe residential housing; or

(e) Persons and families for whom, as found and determined by the Housing Development Fund by resolution, construction of new or rehabilitated residential housing in some designated area or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas qualified manpower resources essential to modern mining, industrial and commercial operations and development in such area or areas.

~~(4)~~ (5) "Federally insured construction loan" means a construction loan for land development, residential housing or nonresidential projects, which are either secured or guaranteed, in whole or in part, by a federally insured mortgage or a federal mortgage, or which are insured or guaranteed, in whole or in part, by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such loan.

~~(5)~~ (6) "Federally insured mortgage" means a mortgage loan for land development, residential housing or nonresidential projects with a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage.

~~(6)~~ (7) "Federal mortgage" means a mortgage loan for land development, residential housing or nonresidential projects made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan.

~~(7)~~ (8) "Housing development fund" means the West Virginia Housing Development Fund heretofore created and established by §31-18-4 of this code.

~~(8)~~ (9) "Land development" means the process of acquiring land for residential housing construction or nonresidential projects or of making, installing or constructing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas, telephone and telecommunications and electric lines and installations, roads, railroad spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage and flood control facilities, whether on or off the site, which the Housing Development Fund deems necessary or desirable to prepare such land for construction within this state.

~~(9)~~ (10) "Land development fund" means the land development fund which may be created and established by the Housing Development Fund in accordance with §31-18-20a of this code.

~~(40)~~ (11) "Minimum bond insurance requirement" means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the Housing Development Fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of: (a) All interest payable during such calendar year on such mortgage finance bonds on said date of computation; plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds; plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation.

~~(44)~~ (12) "Mortgage finance bonds" means bonds issued or to be issued by the Housing Development Fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in §31-18-20b of this code.

~~(42)~~ (13) "Mortgage finance bond insurance fund" means the special trust fund created and established in the State Treasury in accordance with §31-18-20b of this code.

~~(43)~~ (14) "Nonresidential project" means a project in the state, whether or not directly related to the providing of residential housing, determined by the Housing Development Fund as likely to foster and enhance economic growth and development in the area of the state in which such project is developed, for retail, commercial, industrial, community improvement or preservation or other proper purpose, including tourism and recreational housing, land, air or water transportation facilities, facilities for vocational or other training or to provide medical care and other special needs of persons residing in the state, sports complexes and cultural, artistic and other exhibition centers, industrial or commercial projects and facilities, mail order, wholesale and retail sales facilities and other real or personal properties including facilities which are owned or leased by this state, any county or municipality or other public body within the state, and includes, without limitation, the process of acquiring, holding, operating, planning, financing, demolition, construction, renovation, leasing or otherwise disposing of such project or any part thereof or interest therein. Any such project may include appurtenant machinery and equipment.

~~(44)~~ (15) "Operating loan fund" means the operating loan fund which may be created and established by the Housing Development Fund in accordance with §31-18-19 of this code.

~~(45)~~ (16) "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, determined by the Housing Development Fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford sanitary, decent and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs; (b) the size of the family;

(c) the cost and condition of housing facilities available; (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis; and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing: *Provided*, That to the extent found and determined by the Housing Development Fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low or moderate income basis.

~~(16)~~ (17) "Residential housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing for occupancy by eligible persons and families, including, but not limited to, facilities for temporary housing and emergency housing, nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(17)~~ (18) "Special bond insurance commitment fee" means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the Housing Development Fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the Housing Development Fund for such use: *Provided*, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee.

~~(18)~~ (19) "Special bond insurance premium" means: (i) A fee at the rate of one half of one percent per annum on the outstanding principal balance which the Housing Development Fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each successive month that installment payments of principal of such a loan are payable; and (ii) with respect to any loan, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, purchased, or invested in with such proceeds, an equivalent amount which the Housing Development Fund shall set aside from payments it receives on such loan or from any other source available to the Housing Development Fund for such use.

~~(19)~~ (20) "State sinking fund commission" means the commission known as such and continued in existence pursuant to §13-3-1 *et seq.* of this code and any body, board, person or commission which shall, by law, hereafter succeed to the powers and duties of such commission.

~~(20)~~ (21) "Temporary housing" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential housing, including, but not limited to, shelters for homeless people, housing for victims of floods and other disasters, shelters for abused or battered persons and their children, housing for families with hospitalized family members, housing for students and student families, and housing for the handicapped and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(24)~~ (22) "Uninsured construction loans" means a construction loan for land development, residential housing or nonresidential projects which is not secured by either a federally insured mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

~~(22)~~ (23) "Uninsured mortgage" and "uninsured mortgage loan" means mortgage loans for land development, residential housing or nonresidential projects which are not insured or guaranteed by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

### **§31-18-6. Corporate powers.**

The Housing Development Fund is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose, including, but not limited to, the following:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make temporary loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized and operated in accordance with the provisions of §31-18-19 of this code, to defray development costs to sponsors of land development, residential housing or nonresidential projects which are eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages or uninsured construction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To establish residential housing and nonresidential and land development projects for counties declared to be in a disaster area by the Federal Emergency Management Agency or other agency or instrumentality of the United States or this state;

(5) To accept appropriations, gifts, grants, bequests and devises and to utilize or dispose of the same to carry out its corporate purpose;

(6) To make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(7) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative and project assistance services;

(8) To invest any funds not required for immediate disbursement in any of the following securities:

(i) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest on which the full faith and credit of the United States of America is pledged;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for cooperatives; federal intermediate credit banks; federal home loan bank system; export-import bank of the United States; federal land banks; Tennessee valley authority; United States postal service; inter-American development bank; international bank for reconstruction and development; small business administration; Washington metropolitan area transit authority; general services administration; federal financing bank; federal home loan mortgage corporation; student loan marketing association; farmer's home administration; the federal national mortgage association or the government national mortgage association; or any bond, debenture, note, participation certificate or other similar obligation to the extent such obligations are guaranteed by the government national mortgage association or federal national mortgage association or are issued by any other federal agency and backed by the full faith and credit of the United States of America;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the federal deposit insurance corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the federal savings and loan insurance corporation, or its successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve bank: *Provided*, That such investments shall only be made to the extent insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the Housing Development Fund pursuant to this section;

(v) Direct obligations of or obligations guaranteed by the State of West Virginia;

(vi) Direct and general obligations of any other state, municipality or other political subdivision within the territorial United States: *Provided*, That at the time of their purchase, such obligations

are rated in either of the two highest rating categories by a nationally recognized bond-rating agency;

(vii) Any bond, note, debenture or annuity issued by any corporation organized and operating within the United States: *Provided*, That such corporation shall have a minimum net worth of \$15 million and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: *Provided, however*, That: (1) Such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements; and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years; and (3) the bonds, notes or debentures of such corporation to be purchased are rated "AA" or the equivalent thereof or better than "AA" or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor's, Dunn & Bradstreet, Best's or Moody's;

(viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity or other market risks in relation to obligations issued or to be issued or owned or to be owned by the Housing Development Fund, options, futures contracts (including index futures but exclusive of commodities futures, options or other contracts), standby purchase agreements or similar hedging arrangements listed by a nationally recognized securities exchange or a corporation described in paragraph (vii) ~~above~~;

(ix) Certificates, shares or other interests in mutual funds, unit trusts or other entities registered under section eight of the United States Investment Company Act of 1940, but only to the extent that the terms on which the underlying investments are to be made prevent any more than a minor portion of the pool which is being invested in to consist of obligations other than investments permitted pursuant to this section; and

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia State Board of Investments or any other obligation authorized as an investment for the West Virginia State Board of Investments under §12-6-1 *et seq.* of this code or for a public housing authority under §16-15-1 *et seq.* of this code;

(9) To sue and be sued;

(10) To have a seal and alter the same at will;

(11) To make, and from time to time, amend and repeal bylaws and rules and regulations not inconsistent with the provisions of this article;

(12) To appoint such officers, employees and consultants as it deems advisable and to fix their compensation and prescribe their duties;

(13) To acquire, hold and dispose of real and personal property for its corporate purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

(15) To acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the Housing Development Fund has an interest and to sell, transfer and convey any such property to

a buyer and, in the event of such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(16) To purchase or sell, at public or private sale, any mortgage or other negotiable instrument or obligation securing a construction, rehabilitation, improvement, land development, mortgage or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which the Housing Development Fund is a party;

(19) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

(20) To borrow money to carry out and effectuate its corporate purpose and to issue its bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that no notes shall be issued to mature more than ten years from date of issuance and no bonds shall be issued to mature more than fifty years from date of issuance;

(21) To issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than ten years from date of issuance of the notes renewed and no such refunding bonds shall be issued to mature more than fifty years from the date of issuance;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption or payment of the notes or bonds to be refunded;

(23) To make grants and provide technical services to assist in the purchase or other acquisition, planning, processing, design, construction, or rehabilitation, improvement or operation of residential housing, nonresidential projects or land development: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining or increasing employment or the tax base;

(24) To provide project assistance services for residential housing, nonresidential projects and land development, including, but not limited to, management, training and social and other services;

(25) To promote research and development in scientific methods of constructing low cost land development, residential housing or nonresidential projects of high durability including grants, loans or equity contributions for research and development purposes: *Provided*, That no such

grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining and increasing employment and the tax base;

(26) With the proceeds from the issuance of notes or bonds of the Housing Development Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the Housing Development Fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the Housing Development Fund and take such collateral security therefor as is approved by the Housing Development Fund and to invest in, purchase, acquire, sell or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, improvement, purchase or refinancing of land development, residential housing or nonresidential projects in this state: *Provided*, That the Housing Development Fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans, uninsured mortgage loans or uninsured construction loans, for land development, residential housing or nonresidential projects or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(27) To make or participate in the making of uninsured construction loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(28) To make or participate in the making of long-term uninsured mortgage loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(29) To obtain options to acquire real property, or any interest therein, in its own name, by purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable, or potentially suitable, as a site, or as part of a site, for land development or the construction of residential housing or nonresidential projects; to hold such real property or to acquire by purchase or otherwise and to transfer by sale or otherwise any ownership or equity interests in any other legal entity which holds such real property; to finance the performance of land development, residential housing or nonresidential projects on or in connection with any such real property or to perform land development, residential housing or nonresidential projects on or in connection with any such real property; to own, operate and sponsor or participate in the sponsorship of land development, residential housing or nonresidential projects; or to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon such terms, conditions and limitations, and at such time or times as the Housing Development Fund shall determine;

(30) To make loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable from the land development fund, if created, established, organized and operated in accordance with the provisions of §31-18-20a of this code, to sponsors of land development, to defray development costs and other costs of land development;

(31) To exercise all of the rights, powers and authorities of a public housing authority as set forth and provided in §16-15-1 *et seq.* of this code, in any area or areas of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(32) To provide assistance to urban renewal projects in accordance with the provisions of §16-18-28 of this code and in so doing to exercise all of the rights, powers and authorities granted in this article or in said article, in and for any communities of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(33) To make or participate in the making of loans for the purpose of rehabilitating or improving existing residential and temporary housing or nonresidential projects, or to owners of existing residential or temporary housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential or temporary housing or nonresidential projects and, in connection therewith, to refinance existing loans involving the same property. Such loans shall be made only upon determination by the Housing Development Fund that rehabilitation or improvement loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(34) Whenever the Housing Development Fund deems it necessary in order to exercise any of its powers set forth in subdivision (29) of this section, and upon being unable to agree with the owner or owners of real property or interest therein sought to be acquired by the fund upon a price for acquisition of private property not being used or operated by the owner in the production of agricultural products, to exercise the powers of eminent domain in the acquisition of such real property or interest therein in the manner provided under §54-1-1 *et seq.* of this code, and the purposes set forth in said subdivision are hereby declared to be public purposes for which private property may be taken. For the purposes of this section, the determination of "use or operation by the owner in the production of agricultural products" means that the principal use of such real estate is for the production of food and fiber by agricultural production other than forestry, and the fund shall not initiate or exercise any powers of eminent domain without first receiving an opinion in writing from both the Governor and the commissioner of agriculture of this state that at the time the fund had first attempted to acquire such real estate or interest therein, such real estate or interest therein was not in fact being used or operated by the owner in the production of agricultural products;

(35) To acquire, by purchase or otherwise, and to hold, transfer, sell, assign, pool or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities or debt instruments collateralized by mortgages or interests in mortgages or other instruments evidencing loans or equity interests in or for the construction, rehabilitation, improvement, renovation, purchase or refinancing of land development, residential housing and nonresidential projects in this state; and

(36) To form one or more nonprofit corporations, whose board of directors shall be the same as the board of directors of the Housing Development Fund, which shall be authorized and empowered to carry out any or all of the corporate powers or purposes of the Housing Development Fund, including, without limitation, acquiring limited or general partnership interests and other forms of equity ownership;

(37) To receive and compile data into an electronic database and make available the raw mortgage foreclosure data that is required to be reported to county clerks by trustees pursuant to the provisions of §38-1-8a of this code, including all data that has been received by the banking commissioner pursuant to §31A-2-4c(a) of this code, as of the effective date of the effective date of the amendments made to said section during the regular session of the 2010 Legislature. This

information shall be periodically forwarded by county clerks to the Housing Development Fund, in accordance with the provisions of §44-13-4a of this code; and

(38) Provide funding to increase the capacity of nonprofit community housing organizations to serve their communities.

**§31-18-20d. Affordable Housing Fund.**

(a) There is hereby created and established a special fund to be designated as the "Affordable Housing Fund" into which the Housing Development Fund shall deposit the funds received pursuant to §11-15-4c and §11-22-2 of this code. Such funds shall be governed, administered and accounted for by the Housing Development Fund as a special purpose account separate and distinct from any other moneys, fund or funds owned or managed by the Housing Development Fund. Additionally, the Housing Development Fund shall deposit an additional amount at least equal to the funds received pursuant to §31-18-29 of this code. The moneys deposited in such fund may be invested and reinvested by the Housing Development Fund as authorized under §31-18-6(8) of this code.

(b) The Housing Development Fund shall use the moneys from the Affordable Housing Fund to make, or participate in the making of, loans or grants for eligible activities that shall include, but not be limited to:

(1) Providing funds for new construction, rehabilitation, repair or acquisition of housing to assist low or moderate income citizens including land and land improvements;

(2) Providing matching funds for federal housing moneys requiring a local or state match;

(3) Providing funds for administrative costs for housing assistance programs or nonprofit organizations eligible for funding pursuant to subsection(c) of this section if the grants or loans provided will substantially increase the recipient's access to housing funds or increase its capacity to supply affordable housing;

(4) Providing loan guarantees and other financial mechanisms to facilitate the provision of housing products or services;

(5) Providing funds for down payments, closing costs, foreclosure prevention, home ownership counseling and security bonds which facilitate the construction, rehabilitation, repair or acquisition of housing by low to moderate income citizens;

(6) Providing risk underwriting products not provided by private sector entities to facilitate broader accessibility of citizens to other federal or state housing funds or loan programs. The products shall be established using professional risk underwriting standards and separate corporate vehicles may be created and capitalized by the Housing Development Fund to provide the products; and

(7) Providing start-up funds for initial operational expenses of local government programs to reduce substandard housing or inappropriate land use patterns.

(c) Organizations eligible for funding from the Affordable Housing Fund include: (1) Local governments; (2) local government housing authorities; (3) nonprofit organizations recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as

amended, codified in 26 U.S.C. § 501(c)(3), and which are organized and operated exclusively for charitable purposes within the meaning of that section, and in accordance with those purposes provide assistance to low or moderate income citizens of this state; and (4) regional or statewide housing assistance organizations that have been recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, as amended, and which provide assistance to low and moderate income or low income citizens of this state.

**§31-18-22. Termination or dissolution.**

Upon the termination or dissolution, all rights and properties of the Housing Development Fund, including the Operating Loan Fund, the Land Development Fund, ~~and~~ the Mortgage Finance Bond Insurance Fund, and the Affordable Housing Fund, shall pass to and be vested in the State of West Virginia, subject to the rights of bondholders, lienholders and other creditors.

**§31-18-24. Annual audit; reports to Joint Committee on Government and Finance; information to joint committee or legislative Auditor.**

The Housing Development Fund shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Speaker of the House of Delegates, the President of the Senate and the majority and minority leaders of both houses.

In addition to the foregoing annual audit report, the Housing Development Fund shall also render every six months to the Joint Committee on Government and Finance a report setting forth in detail a complete analysis of the activities, indebtedness, receipts and financial affairs of such fund and the operating loan fund, the land development fund, affordable housing fund and the mortgage finance bond insurance fund. Upon demand, the Housing Development Fund shall also submit to the Joint Committee on Government and Finance or the Legislative Auditor any other information requested by such committee or the Legislative Auditor.

**§31-18-29. Dissolution of West Virginia Affordable Housing Trust Fund.**

Upon termination of the West Virginia Affordable Housing Trust Fund, the Housing Development Fund shall provide for the payment of all debts, obligations, or expenses of the Affordable Housing Trust Fund, and all assets remaining in the Affordable Housing Trust Fund shall be transferred to the West Virginia Housing Development Fund.

**ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.**

**§31-18D-1. Short title.**

[Repealed.]

**§31-18D-2. Legislative finding and purpose.**

[Repealed.]

**§31-18D-3. Definitions.**

[Repealed.]

**§31-18D-4. Affordable housing trust fund.**

[Repealed.]

**§31-18D-5. Housing Trust Fund Board of Directors.**

[Repealed.]

**§31-18D-6. Powers and responsibilities of the board.**

[Repealed.]

**§31-18D-7. Eligible activities; eligible organizations.**

[Repealed.]

**§31-18D-8. Corporate powers.**

[Repealed.]

**§31-18D-9. Applications and selection criteria.**

[Repealed.]

**§31-18D-10. Documentary materials concerning financial or personal information; confidentiality.**

[Repealed.]

**§31-18D-11. Conflicts.**

[Repealed.]

**§31-18D-12. Tax exemption.**

[Repealed.]

**§31-18D-13. Annual report.**

[Repealed.]

**§31-18D-14. Exemption from certain requirements; audit**

[Repealed.]

**§31-18D-15. Dissolution or liquidation of trust fund.**

[Repealed.];

And,

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

**Eng. Com. Sub. for Senate Bill 261**—A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, §31-18D-14 and §31-18D-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6, §31-18-22 and §31-18-24 of said code; and to amend said code by adding thereto a new section, designated §31-18-20d, all relating generally to the elimination of the West Virginia Affordable Housing Trust Fund; transferring current responsibilities and duties of the West Virginia Housing Trust Fund to the West Virginia Housing Development Fund; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fee on all sales by licensed dealers of factory-built homes to be deposited in Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fee upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; defining “Affordable Housing Fund”; authorizing West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in Affordable Housing Fund; requiring certain reporting; providing for disposition of Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund; and providing for windup of West Virginia Affordable Housing Trust Fund.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 261) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 261**—A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, §31-18D-14 and §31-18D-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6, §31-18-22 and §31-18-24 of said code; and to amend said code by adding thereto two new sections, designated §31-18-20d and §31-18-29, all relating generally to the elimination of the West Virginia Affordable Housing Trust Fund; transferring current responsibilities and duties of West Virginia Housing Trust Fund to the West Virginia Housing Development Fund; eliminating the West Virginia Affordable Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of Directors; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fees on all sales by licensed dealers of factory-built homes to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fees upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; prohibiting use of funds in Affordable Housing Fund from being used to defray administrative and operating costs and expenses of Housing Development Fund; defining “Affordable Housing Fund”; authorizing the West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in the Affordable Housing Fund; providing for disposition of the Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund; providing for windup of

West Virginia Affordable Housing Trust Fund; repealing code related to West Virginia Affordable Housing Trust Fund; eliminating obsolete language; and making technical corrections.

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

Engrossed Committee Substitute for Senate Bill 261, as amended, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 261 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Drennan, Facemire, Ferns, Gaunch, Karnes, Maroney, Romano, Rucker, Swope, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Cline, Jeffries, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Sypolt, Unger, and Woelfel—14.

Absent: Mann and Takubo—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Com. Sub. for Senate Bill 273**, Reducing use of certain prescription drugs.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page twenty-one, section one, line nine, by striking out “§30-3E-1 *et seq.*” and inserting in lieu thereof “§30-3E-3”.

On pages twenty-two through twenty-four, by striking out all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

**§16-54-4. Opioid prescription limitations.**

(a) When issuing a prescription for an opioid to an adult patient seeking treatment in an emergency room for outpatient use, a health care practitioner may not issue a prescription for more than a four-day supply.

(b) When issuing a prescription for an opioid to an adult patient seeking treatment in an urgent care facility setting for outpatient use, a health care practitioner may not issue a prescription for more than a four day supply: *Provided*, That an additional dosing for up to no more than a seven day supply may be permitted, but only, if the medical rational for more than a four day supply is documented in the medical record.

(c) A health care practitioner may not issue an opioid prescription to a minor for more than a three-day supply and shall discuss with the parent or guardian of the minor the risks associated with opioid use and the reasons why the prescription is necessary.

(d) A dentist or an optometrist may not issue an opioid prescription for more than a three-day supply at any time.

(e) A practitioner may not issue an initial opioid prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgement of the practitioner would be the best course of treatment for this patient and his or her condition.

(f) Prior to issuing an initial opioid prescription, a practitioner shall:

(1) Take and document the results of a thorough medical history, including the patient's experience with nonopioid medication, nonpharmacological pain management approaches, and substance abuse history;

(2) Conduct, as appropriate, and document the results of a physical examination;

(3) Develop a treatment plan, with particular attention focused on determining the cause of the patient's pain; and

(4) Access relevant prescription monitoring information under the Controlled Substances Monitoring Program Database.

(g) Notwithstanding any provision of this code or legislative rule to the contrary, no medication listed as a Schedule II controlled substance as set forth in §60A-2-206 of this code, may be prescribed by a practitioner for greater than a 30-day supply: *Provided*, That two additional prescriptions, each for a 30-day period for a total of a 90-day supply, may be prescribed if the practitioner accesses the West Virginia Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code: *Provided*, however, That the limitations in this section do not apply to cancer patients, patients receiving hospice care from a licensed hospice provider, patients receiving palliative care, a patient who is a resident of a long-term care facility, or a patient receiving medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(h) A practitioner is required to conduct and document the results of a physical examination every 90 days for any patient for whom he or she continues to treat with any Schedule II controlled substance as set forth in §60-2-206 of this code.

(i) A veterinarian licensed pursuant to the provisions of §30-10-1 et seq. of this code may not issue more than an initial opioid prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgment of the veterinarian would be the best course of treatment for this patient and his or her condition.

(j) A prescription for any opioid drug listed on Schedule II as set forth in §60A-2-206 of this code for greater than a seven-day period shall require the patient to execute a narcotics contract with their prescribing practitioner. The contract shall be made a part of the patient's medical record. The narcotics contract is required to provide that:

(1) The patient agrees only to obtain scheduled medications from this particular prescribing practitioner;

(2) The patient agrees he or she will only fill those prescriptions at a single pharmacy which includes a pharmacy with more than one location;

(3) The patient agrees to notify the prescribing practitioner within 72 hours of any emergency where he or she are prescribed scheduled medication; and

(4) If the patient fails to honor the provisions of the narcotics contract, the prescribing practitioner may either terminate the provider-patient relationship or continue to treat the patient without prescribing a Schedule II opioid for the patient. Should the practitioner decide to terminate the relationship, he or she is required to do so pursuant to the provisions of this code and any rules promulgated hereunder. Termination of the relationship for the patient's failure to honor the provisions of the contract is not subject to any disciplinary action by the practitioner's licensing board.”;

On pages twenty-seven and twenty-eight, by striking out section eight in its entirety and inserting a new section eight, to read as follows:

**§16-54-8. Treatment of pain.**

(a) When patients seek treatment for any of the myriad conditions that cause pain, a health care practitioner shall refer or prescribe to a patient any of the following treatment alternatives, based on the practitioner's clinical judgment and the availability of the treatment, before starting a patient on an opioid: physical therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code.

(b) Nothing in this section should be construed to require that all of the treatment alternatives set forth in §16-54-8(a) of this code are required to be exhausted prior to the patient receiving a prescription for an opioid.

(c) At a minimum an insurance provider who offers an insurance product in this state, the Bureau for Medical Services and the Public Employees Insurance Agency shall provide coverage for 20 visits per event of physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, when ordered by a health care practitioner to treat conditions that cause chronic pain.

(d) A patient may seek treatment for physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, prior to seeking treatment from a practitioner and a practitioner referral is not required as a condition of coverage by the Bureau for Medical Services, the Public Employees Insurance Agency, and any insurance provider who offers an insurance product in this state. Any deductible, coinsurance, or co-pay required for any of these services may not be greater than the deductible, coinsurance, or co-pay required for a primary care visit.

(e) Nothing in this section precludes a practitioner from simultaneously prescribing an opioid and prescribing or recommending any of the procedures set forth in §16-54-8(a) of this code.;

And,

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 273**—A Bill to amend and reenact §16-5H-2 and §16-5H-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5Y-2, §16-5Y-4, and §16-5Y-5 of said code; to amend said code by adding thereto a new article, designated §16-54-1, §16-54-2, §16-54-3, §16-54-4, §16-54-5, §16-54-6, §16-54-7, §16-54-8, and §16-54-9; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3A-1, §30-3A-2, §30-3A-3, and §30-3A-4 of said code; to amend and reenact §30-4-19 of said code; to amend and reenact §30-5-6 of said code; to amend and reenact §30-7-11 of said code; to amend and reenact §30-8-18 of said code; to amend and reenact §30-10-19 of said code; to amend and reenact §30-14-12a of said code; to amend and reenact §30-36-2 of said code; to amend said code by adding thereto a new section, designated §60A-5-509; and to amend and reenact §60A-9-4, §60A-9-5, and §60A-9-5a of said code, all relating to reducing the use of certain prescription drugs; providing for an exemption from registration for office-based, medication-assisted treatment program in specified cases; providing for an exemption for medication-assisted treatment programs; clarifying physician responsibility for medication-assisted treatment; clarifying definition of “pain management clinic”; providing for emergency rulemaking; defining terms; providing for an advance directive; requiring consultation with patients prior to prescribing an opioid; limiting the amount of opioid prescriptions; requiring a narcotics contract in certain circumstances; providing exceptions to prescribing limits; providing for referral to a pain clinic or pain specialist; providing reports to licensing boards regarding abnormal or unusual prescribing practices; requiring referral to certain alternative treatments; requiring insurance coverage for certain procedures to treat chronic pain; updating board’s titles; requiring the Board of Pharmacy to report quarterly to various licensing boards; exempting the Board of Pharmacy from certain purchasing requirements; clarifying who must report to the Controlled Substances Monitoring Database; clarifying the practice of acupuncture; precluding retaliation against a health care provider for declining to prescribe a narcotic; and permitting the investigation and discipline for abnormal and unusual prescribing and dispensing of prescription drugs.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 273, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 273 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 273) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 275**, Relating to tax on purchases of intoxicating liquors.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page eleven, section nine-d, line sixteen, after the word “code.” by inserting the following: For purposes of this article, the term “original sealed package” means an original sealed package as defined in §8-13-7 of this code.;

On page twelve, section nine-d, lines twenty-four through twenty-six, by striking out all of paragraph (B) and inserting in lieu thereof a new paragraph, designated paragraph (B), to read as follows:

(B) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.;

And,

On page thirteen, section twenty-one, lines thirteen through seventeen, by striking out all of subdivisions (2) and (3) and inserting in lieu thereof two new subdivisions, designated subdivisions (2) and (3), to read as follows:

(2) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.

(3) When determining whether the tax is collected on sales within the corporate limits of any municipality, a seller shall use the sourcing rules provided in §11-15B-1 et seq. of this code.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 275) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 275**—A Bill to amend and reenact §11-10-5d of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-9d of said code; and to amend

and reenact §60-3A-21 of said code, all relating to the excise tax on sales of intoxicating liquors and wine; defining terms; providing that tax collected on sales sourced within the corporate limits of a municipality be remitted to the municipality; providing that the tax collected on sales sourced outside the corporate limits of a municipality be remitted to the county; providing rule-making authority; providing sourcing rules for determining whether tax is collected within or outside of the corporate limits of a municipality; permitting counties to inspect and make copies of certain Tax Commissioner records relating to the collection of tax within the county and the municipalities in the county or the remittance of tax to such county or municipalities; and permitting municipalities to inspect and make copies of certain Tax Commissioner records relating to the collection of tax within the municipality and within the county in which the municipality is located, but outside of the corporate limits of another municipality, and the remittance of tax to such municipality and county.

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

Engrossed Committee Substitute for Senate Bill 275, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Azinger, Gaunch, and Smith—3.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 275) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for Senate Bill 290**, Relating to DEP standards of water quality and effluent limitations.

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

**Eng. Senate Bill 322**, Relating to employees of Department of Agriculture.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 385**, Decreasing and adding appropriations out of Treasury to DHHR and MAPS.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 392**, Reconfiguring membership of Emergency Medical Services Advisory Council.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section five, line nine, by striking out "15" and inserting in lieu thereof "18".

On page two, section five, lines thirty and thirty-one, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

"(3) Three persons to represent the general public;"

On page two, section five, after line thirty-one, by inserting a new subdivision, designated subdivision (4), to read as follows:

"(4) One person to represent emergency medical services training officers or representatives; and";

And,

By renumbering the remaining subdivision.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 392) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Senate Bill 411**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

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

**ARTICLE 7. PURE FOOD AND DRUGS.**

**§16-7-5a. Joint Task Force on Milk Rules and Regulations.**

(a) The Legislature finds that it is in the public interest to examine the potential benefit and economies of scale by transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture.

(b) On or before June 1, 2018, the Governor shall appoint a Joint Task Force on Milk Rules and Regulations composed of the following fifteen members:

(1) One representative from the Department of Agriculture;

(2) One representative from the Bureau for Public Health;

(3) One representative of the West Virginia University Extension Service;

(4) One representative from local health departments in the state;

(5) Two representatives from a trade or industry group representing the farming and agriculture industry in the state, at least one of whom shall be a dairy farmer;

(6) Three citizen members;

(7) Three Senators as recommended by the President of the Senate, no more than two of whom shall be from the same political party; and

(8) Three Delegates as recommended by the Speaker of the House of Delegates, no more than two of whom shall be from the same political party.

(c) The representative from the Department of Agriculture shall preside over the work group and shall provide staff to facilitate meetings of the Joint Task Force. The Joint Task Force shall examine the potential benefit and economies of scale of transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture. The task force may recommend legislation to the Governor and to the Joint Committee on Government and Finance no later than December 31, 2018.

(d) The expenses of the members on the task force shall be paid equally from the funds of the Department of Agriculture, the Bureau for Public Health, and the West Virginia University Extension Service: *Provided*, That the members of the Joint Task Force may receive no compensation for their services other than actual expenses incurred in the discharge of their duties as members of the Joint Task Force.

(d) The authority of the Joint Task Force on Milk Rules and Regulations shall sunset and expire and is of no force and effect after December 31, 2018, or upon submission of any recommendations or draft legislation, whichever comes first.;

And,

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

**Eng. Senate Bill 463**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-7-5a, relating to authorizing the establishment of a Joint Task Force on Milk Rules and Regulations; providing for the appointment of certain members by the Governor; authorizing the task force to study milk rules and regulations; providing for reimbursement of actual expenses for members; providing task force members may receive no compensation; authorizing the task force to propose legislation; and providing for the sunset of the task force.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 463) were reported by the Clerk, considered simultaneously, and adopted:

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

## CHAPTER 16

### ARTICLE 7. PURE FOOD AND DRUGS.

#### **§16-7-5a. Joint Task Force on Milk Rules and Regulations.**

(a) The Legislature finds that it is in the public interest to examine the potential benefit and economies of scale by transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture.

(b) On or before June 1, 2018, the Governor shall appoint a Joint Task Force on Milk Rules and Regulations composed of the following fifteen members:

(1) One representative from the Department of Agriculture;

(2) One representative from the Bureau for Public Health;

(3) One representative of the West Virginia University Extension Service;

(4) One representative from local health departments in the state;

(5) Two representatives from a trade or industry group representing the farming and agriculture industry in the state, at least one of whom shall be a dairy farmer;

(6) Three citizen members;

(7) Three Senators as recommended by the President of the Senate, no more than two of whom shall be from the same political party; and

(8) Three Delegates as recommended by the Speaker of the House of Delegates, no more than two of whom shall be from the same political party.

(c) The representative from the Department of Agriculture shall preside over the work group and shall provide staff to facilitate meetings of the Joint Task Force. The Joint Task Force shall examine the potential benefit and economies of scale of transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture. The task force shall recommend legislation to the Governor and to the Joint Committee on Government and Finance no later than December 31, 2018.

(d) The expenses of the members on the task force shall be paid equally from the funds of the Department of Agriculture, the Bureau for Public Health, and the West Virginia University Extension Service: *Provided*, That the members of the Joint Task Force may receive no compensation for their services other than actual expenses incurred in the discharge of their duties as members of the Joint Task Force.

(d) The authority of the Joint Task Force on Milk Rules and Regulations shall sunset and expire and is of no force and effect after December 31, 2018, or upon submission of any recommendations or draft legislation, whichever comes first.;

And,

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

**Eng. Senate Bill 463**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-7-5a, relating to authorizing the establishment of a Joint Task Force on Milk Rules and Regulations; providing for the appointment of certain members by the Governor; authorizing the task force to study milk rules and regulations; providing for reimbursement of actual expenses for members; providing task force members may receive no compensation; requiring the task force to propose legislation; and providing for the sunset of the task force.

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

Engrossed Senate Bill 463, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Romano—2.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 463) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Romano—2.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 463) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 506**, Deregulating persons who perform work on heating, ventilating, and cooling systems.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page four, section five, line nine, by striking out the word “relating” and inserting in lieu thereof the word “related”;

On page four, section five, lines twenty-one and twenty-two, by striking out the words “purposes set forth in the amendments to this article that were made effective July 1, 2018, including, but not limited to” and inserting in lieu thereof the words “purpose of describing”;

On page five, section five, line twenty-four, by striking out the words “without examination”;

And,

On page five, section five, line thirty-five, after the word “representatives;” by inserting the word “and”.

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

Engrossed Committee Substitute for House Bill 506, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Facemire, Ojeda, and Romano—3.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 506) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 525**, Relating to certification for emergency medical training - mining.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

On page two, section three, line thirty-four, by striking out the word “commissioner” and inserting in lieu thereof the word “director”;

On page three, section three, line forty-four, by striking out the words “certification and”;

And,

On page three, section three, lines forty-seven through forty-nine, by striking out the words “have a valid cardiopulmonary resuscitation certification and must be an approved Mine Safety and Health Administration- or Occupational Safety and Health Administration-certified instructor” and inserting in lieu thereof the words “obtain an EMT-M Instructor Certification issued by the West Virginia Office of Miners’ Health, Safety and Training”.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. S. B. 525) was reported by the Clerk and adopted:

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

**Eng. Senate Bill 525**—A Bill to repeal §16-4C-6c of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22A-10-3, relating to emergency medical technicians – mining; transferring certification requirements for emergency medical technician – mining to the chapter governing miners’ health, safety and training; eliminating authority of director of Miners’ Health Safety and Training to authorizing providers to administer certification courses and examination; modifying requirements for training personnel and independent trainers; and making technical corrections.

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

Engrossed Senate Bill 525, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 525) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

**Eng. Com. Sub. for Senate Bill 548**, Authorizing county commissions to pay election officials.

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

On further motion of Senator Ferns, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 548) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 585**, Altering boundary line between Doddridge and Harrison counties.

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

The following House of Delegates amendments to the bill were reported by the Clerk:

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

**THE BOUNDARY LINE BETWEEN DODDRIDGE COUNTY AND HARRISON COUNTY.**

**§1. The boundary line between Doddridge County and Harrison County.**

§1. That the following bounded and described area of land now a part of the county of Doddridge and adjoining the county of Harrison shall be and is hereby severed from said county of Doddridge and attached to the county of Harrison, state of West Virginia. The boundary line between Doddridge and Harrison Counties is and shall be modified so that all property of the Salem Correctional Center, formerly the West Virginia Industrial Home, shall be within Harrison County as follows:

Beginning at a point in the chain link fence on the line between Doddridge County and Harrison County, West Virginia, being the northwest corner of the tract of land herein described, and bearing, South 46 degrees 40 minutes 09 seconds East, a distance of 127.43 feet from a 3/4" iron rebar and cap now set at an angle point on said county line between Doddridge and Harrison Counties, said point being on the lands of West Virginia State Industrial Home (Tax Map 301 Parcel 32, Deed Book 101 Page 570) (Harrison County);

Thence, running with said county line and through said West Virginia State Industrial Home (Parcel 32), lands, South 46 degrees 40 minutes 09 seconds East, for a distance of 407.12 feet to a MAG nail now set;

Thence, partially through said West Virginia State Industrial Home (Parcel 32), lands and other lands of the State of West Virginia (Tax Map 22 Parcel 40) (Doddridge County), South 21 degrees 20 minutes 14 seconds West, passing a chain link fence at a distance of 491.50 feet, for a total distance of 645.89 feet to a point in said chain link fence, which bears, North 21 degrees 20 minutes 14 seconds East, a distance of 442.94 feet from a MAG nail now set in Harrison County Route 50/29 and Doddridge County Route 38;

Thence, leaving said county line between said Doddridge and Harrison Counties, and through said State of West Virginia (Parcel 40) (Doddridge County) and with said chain link fence, South 68 degrees 39 minutes 55 seconds West, a distance of 114.17 feet to a point;

Thence, South 04 degrees 41 minutes 59 seconds East, a distance of 30.17 feet to a point;

Thence, South 01 degrees 18 minutes 54 seconds East, a distance of 10.28 feet to a point;

Thence, South 03 degrees 43 minutes 27 seconds West, a distance of 10.10 feet to a point;

Thence, South 12 degrees 11 minutes 09 seconds West, a distance of 20.48 feet to a point;

Thence, South 55 degrees 59 minutes 51 seconds West, a distance of 37.73 feet to a point;

Thence, South 44 degrees 19 minutes 41 seconds West, a distance of 20.08 feet to a point;

Thence, South 47 degrees 36 minutes 07 seconds West, a distance of 10.05 feet to a point;

Thence, South 52 degrees 08 minutes 56 seconds West, a distance of 40.38 feet to a point;

Thence, South 64 degrees 50 minutes 32 seconds West, a distance of 10.40 feet to a point;

Thence, South 60 degrees 52 minutes 42 seconds West, a distance of 159.19 feet to a point;

Thence, North 88 degrees 14 minutes 48 seconds West, a distance of 29.94 feet to a point;

Thence, South 84 degrees 54 minutes 06 seconds West, a distance of 38.29 feet to a point;

Thence, South 79 degrees 27 minutes 07 seconds West, a distance of 80.87 feet to a point;

Thence, South 81 degrees 09 minutes 06 seconds West, a distance of 9.85 feet to a point;

Thence, South 87 degrees 05 minutes 26 seconds West, a distance of 9.99 feet to a point;

Thence, North 84 degrees 40 minutes 59 seconds West, a distance of 10.30 feet to a point;

Thence, North 01 degrees 54 minutes 25 seconds East, a distance of 19.89 feet to a point;

Thence, North 77 degrees 48 minutes 02 seconds West, a distance of 9.53 feet to a point;

Thence, North 70 degrees 19 minutes 32 seconds West, a distance of 8.19 feet to a point;

Thence, North 63 degrees 03 minutes 51 seconds West, a distance of 8.36 feet to a point;

Thence, North 55 degrees 42 minutes 57 seconds West, a distance of 9.10 feet to a point;

Thence, North 48 degrees 39 minutes 56 seconds West, a distance of 10.24 feet to a point;

Thence, North 38 degrees 36 minutes 40 seconds West, a distance of 39.22 feet to a point;

Thence, North 39 degrees 39 minutes 58 seconds West, a distance of 39.85 feet to a point;

Thence, North 39 degrees 47 minutes 57 seconds West, a distance of 94.34 feet to a point;

Thence, North 34 degrees 34 minutes 50 seconds West, a distance of 49.99 feet to a point;

Thence, North 34 degrees 17 minutes 51 seconds West, a distance of 60.62 feet to a point;

Thence, North 33 degrees 07 minutes 52 seconds West, a distance of 88.90 feet to a point;

Thence, North 33 degrees 22 minutes 22 seconds West, a distance of 69.52 feet to a point;

Thence, North 28 degrees 27 minutes 37 seconds East, a distance of 10.45 feet to a point;

Thence, North 54 degrees 04 minutes 14 seconds East, a distance of 30.48 feet to a point;

Thence, North 57 degrees 37 minutes 32 seconds East, a distance of 19.94 feet to a point;

Thence, North 64 degrees 35 minutes 58 seconds East, a distance of 19.96 feet to a point;

Thence, North 68 degrees 13 minutes 15 seconds East, a distance of 19.08 feet to a point;

Thence, North 71 degrees 59 minutes 48 seconds East, a distance of 40.17 feet to a point;

Thence, North 74 degrees 21 minutes 11 seconds East, a distance of 164.94 feet to a point;

Thence, North 48 degrees 23 minutes 34 seconds East, a distance of 9.24 feet to a point;

Thence, North 37 degrees 13 minutes 32 seconds East, a distance of 81.25 feet to a point;

Thence, North 27 degrees 50 minutes 49 seconds East, a distance of 198.04 feet to a point;

Thence, North 56 degrees 53 minutes 52 seconds East, a distance of 66.32 feet to a point;

Thence, North 44 degrees 13 minutes 13 seconds East, a distance of 20.63 feet to a point;

Thence, North 35 degrees 45 minutes 02 seconds East, a distance of 54.35 feet to a point;

Thence, North 41 degrees 32 minutes 03 seconds West, a distance of 70.20 feet to a point;

Thence, North 31 degrees 14 minutes 26 seconds East, a distance of 278.48 feet to a point;

Thence, North 81 degrees 03 minutes 31 seconds East, a distance of 130.95 feet to the Point of Beginning, containing 14.20 acres, MORE OR LESS, as shown on an exhibit attached hereto and made a part of this description.

The tract or parcel of land herein described being part of the same lands conveyed to West Virginia State Industrial Home in Deed Book 101 Page 570 at the Office of the Clerk, Harrison County, West Virginia and State of West Virginia as recorded in at the Office of the Clerk, Doddridge County, West Virginia.;

And,

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

**Eng. Senate Bill 585**—A Bill to attach to Harrison County an area of Doddridge County so as to place all of the grounds of the Salem Correctional Center, formerly the West Virginia Industrial Home, within the boundary of Harrison County and to change the boundary line between said counties in conformity therewith.

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

Engrossed Senate Bill 585, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 585) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 585) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 4016**, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. House Bill 4183**, Relating generally to standardized testing requirements for nonpublic schools.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. House Bill 4462**, Allowing off duty members and officers of the department of public safety to guard private property.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

**Eng. Com. Sub. for House Bill 4522**, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

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

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

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

**Eng. Com. Sub for House Bill 4522**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-5dd, relating to allowing certain tax information to be shared with the State Auditor and the chief executive officer of the Enterprise Resource Planning Board and of certain other agencies pursuant to written agreements; and defining terms.

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

Engrossed Committee Substitute for House Bill 4522, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4522) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the adoption, as amended, of

**House Concurrent Resolution 5**, U. S. Army PFC Jessie Franklin Crow Memorial Bridge.

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

**House Concurrent Resolution 100**—Requesting the Division of Highways name bridge number S331-Hgh/St-0.01, locally known as the South High Street Bridge, carrying County Route 119/39 over Deckers Creek in Monongalia County, the “Morgantown High School Veterans Bridge”.

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

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

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

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

At the request of Senator Gaunch, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

At the request of Senator Beach, unanimous consent being granted, Senator Beach addressed the Senate regarding the Governor responding to the request and appointing six additional women to the Public Employees Insurance Task Force.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Ferns, the Senate recessed until 7:30 p.m. tonight.

The Senate reconvened at 8:14 p.m. tonight and, without objection, returned to the third order of business.

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

**Eng. Com. Sub. for House Bill 4401**, Relating to the registration of business.

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

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

On page four, section eleven, line thirty-nine, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page five, section eight, line six, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page seven, section five-c, line forty-one, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page nine, section nine, line thirty-two, after the word “obligation”, by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page ten, section four, line twenty, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page ten, section seventeen, line seven, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page twelve, section nine, line six, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page thirteen, section seven, line twenty-two, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page fourteen, section ten, line six, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page fifteen, section eight, line nineteen, after the word “obligation”, by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page fifteen, section twenty, line thirteen, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page sixteen, section twenty-one, line forty-five, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page seventeen, section twenty-two, line twenty, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

And,

On page eighteen, section fourteen, line fifteen, after the word “obligation” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.

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

Engrossed Committee Substitute for House Bill 4401, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Beach, Mann, Stollings, Takubo, Trump, and Woelfel—6.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4401) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Beach, Mann, Stollings, Takubo, Trump, and Woelfel—6.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4401) takes effect from passage.

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

### **Executive Communications**

The Clerk then presented communications from His Excellency, the Governor, advising that on March 9, 2018, he had approved **Enr. Committee Substitute for Senate Bill 360, Enr. Committee Substitute for House Bill 2889, Enr. Committee Substitute for House Bill 4268 and Enr. House Bill 4385.**

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of March, 2018, 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. 37)**, Equalizing penalty for entering without breaking regardless of time of day.

**(Com. Sub. for S. B. 73)**, Modifying crime of fleeing from scene of accident.

**(Com. Sub. for S. B. 110)**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

**(Com. Sub. for S. B. 134)**, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

**(S. B. 143)**, Permitting DNR identification tag be used to identify trap.

**(Com. Sub. for S. B. 146)**, Correcting technical error within Solid Waste Management Act.

**(Com. Sub. for S. B. 181)**, Authorizing MAPS promulgate legislative rules.

**(Com. Sub. for Com. Sub. for S. B. 307)**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance.

**(Com. Sub. for S. B. 327)**, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

**(S. B. 338)**, Changing date for employers to file annual reconciliation and withholding statements.

**(S. B. 343)**, Limiting expenses in preparing list for notice to redeem.

**(S. B. 346)**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

**(Com. Sub. for S. B. 348)**, Allowing for disposal of service weapons of special DNR police officers.

**(S. B. 350)**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State.

**(S. B. 351)**, Permitting ballot commissioners serve while candidates for certain offices.

**(S. B. 364)**, Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle.

**(Com. Sub. for S. B. 395)**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

**(Com. Sub. for S. B. 397)**, Creating crime of impersonating blind or disabled person.

**(S. B. 444)**, Repealing antiquated code sections regarding safety glass and lighting in motor vehicles.

**(S. B. 464)**, Changing statutory payment date for incremental salary increases due state employees.

**(S. B. 539)**, Increasing limit for settling claims against DOH.

**(Com. Sub. for S. B. 561)**, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property.

**(Com. Sub. for H. B. 2483)**, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

**(Com. Sub. for H. B. 4169)**, Requiring certain establishments and facilities to post human trafficking assistance notices.

**(Com. Sub. for H. B. 4238)**, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

**(H. B. 4402)**, Relating to the prevention of sexual abuse of children.

**(H. B. 4410)**, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

**(H. B. 4436)**, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

**(Com. Sub. for H. B. 4444)**, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

And,

**(H. B. 4624)**, Relating to West Virginia coordinate systems.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Senate Concurrent Resolution 68** (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance to study the potential creation of a nonpartisan commission tasked with planning and mapping state legislative election districts, to be enacted by the Legislature, following the United States Census in 2020.

Whereas, The right to vote and the fair representation of citizens by their elected officials is fundamental to West Virginia's founding principles; and

Whereas, Election districts that reflect partisan interests undermine the basic tenets of healthy democracy, including fair representation and government accountability; and

Whereas, Redistricting procedures in this state should be reformed to ensure a system of representative politics; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is requested to study the potential creation of a nonpartisan commission tasked with planning and mapping state legislative election districts, to be enacted by the Legislature, following the United States Census in 2020; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and other recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

On motion of Senator Ferns, the resolution (S. C. R. 68) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

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

Your Committee on Natural Resources has had under consideration

**Senate Concurrent Resolution 69** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the development of an Office of Outdoor Recreation within the Division of Natural Resources.

Whereas, Facilitating and preserving opportunities for outdoor recreation in West Virginia could lead to the creation of jobs and help stimulate local economies through tourism, both by attracting out-of-state visitors and by increasing national awareness of the outdoor recreational opportunities and resources in this state; and

Whereas, The creation of an Office of Outdoor Recreation within the Division of Natural Resources could be instrumental in coordinating resources, policies, information, funding, and communications to further these goals; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the development of an Office of Outdoor Recreation within the Division of Natural Resources; and, be it

*Further Resolved*, That input shall be sought from appropriate state, local, and private entities, including, but not limited to, the Division of Natural Resources and the Division of Tourism; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 69) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

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

Your Committee on Natural Resources has had under consideration

**Senate Concurrent Resolution 70** (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the ways to deter wanton waste of game animals, game birds, and game fish.

Whereas, It is deleterious to the quality of West Virginia's fields, woods, and streams for persons to waste game fish, game birds, and game animals by taking therefrom only certain valuable parts and leaving the remainder unused to simply decay; and

Whereas, The problems posed by such waste could be ameliorated by creating and/or enhancing penalties against persons engaged in such waste; and

Whereas, Before enacting legislation to prohibit any behavior related to such waste, the legislature would benefit from a study considering what, if any, consensus exists on how little use of particular types of game is acceptable before partial use degenerates into wanton waste, and what legislative action could best deter it; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the ways to deter wanton waste of game animals, game birds, and game fish; and, be it

*Further Resolved*, That input shall be sought from appropriate state, local, and private entities, including, but not limited to, the Division of Natural Resources; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Mark R. Maynard,  
*Chair.*

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 70) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

The Senate again proceeded to the fifth order of business.

**Filed Conference Committee Reports**

The Clerk announced the following conference committee reports had been filed at 8:19 p.m. tonight:

**Eng. Com. Sub. for Senate Bill 51**, Relating to domestic relations

And,

**Eng. Senate Bill 545**, Relating to driving privileges and requirements for persons under 18.

On motion of Senator Ferns, at 8:23 p.m.,

the Senate adjourned until tomorrow, Saturday, March 10, 2018, at 11 a.m.

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## **SENATE CALENDAR**

**Saturday, March 10, 2018  
11:00 AM**

### **UNFINISHED BUSINESS**

- S. C. R. 64 - Designating Sunday, May 6, 2018, as World Moyamoya Awareness Day
- S. C. R. 65 - US Army SP4 Wilbur Allen Smith Memorial Bridge
- S. C. R. 66 - Robert "Glen" Schoonover Memorial Bridge
- S. C. R. 67 - Requesting study on improving WV students' scores on educational tests

### **THIRD READING**

- Eng. Com. Sub. for H. B. 4345 - Relating to limitations on permits for growers, processors and dispensaries of medical cannabis - (Amend. and title amend. pending)
- Eng. H. B. 4465 - Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy
- Eng. Com. Sub. for H. B. 4607 - Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails - (Com. title amend. pending)