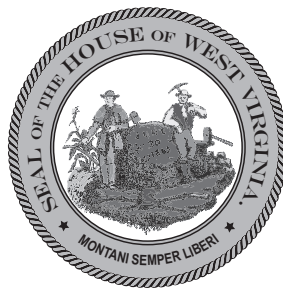


West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Third Legislature  
First Regular Session

Held at Charleston  
Published by the Clerk of the House



April 6, 2017  
FIFTY-EIGHTH DAY



---

Thursday, April 6, 2017

**FIFTY-EIGHTH DAY**

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

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Wednesday, April 5, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Messages from the Senate**

A message from the Senate, by

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

**Com. Sub. for H. B. 2006**, Increasing the penalties for violating the Whistle-blower Law.

A message from the Senate, by

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

**H. B. 2119**, Repealing West Virginia Health Benefit Exchange Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2319**, Relating to candidates or candidate committees for legislative office disclosing contributions.

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

**Com. Sub. for H. B. 2319** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15; and to amend said code by adding thereto a new section, designated §6B-3-4a, all relating to enhancing disclosure requirements while the Legislature is in session; requiring timely disclosure of fund-raising events, including contributions, of candidates or candidate committees for legislative office while the Legislature is in session; requiring members of Legislature who are candidates for public office to disclose existence of fund-raising event and receipt of all contributions within five business days after event; imposing the same reporting requirements upon former candidates or candidate committees for legislative office who are still in office and who use fund-raising event to retire or pay-off debt to campaign while Legislature in session; clarifying that reporting under this section does not relieve a candidate or candidate's

committee from regular reporting requirements; requiring Secretary of State to create a form for disclosure; requiring the Secretary of State to publish information on the Secretary of State's website; authorizing the Secretary of State to establish a means for electronic filing and disclosure as an alternative; authorizing the Secretary of State to promulgate legislative and emergency rules; requiring timely disclosure of certain lobbyist expenditures while the Legislature is in session; requiring lobbyists to disclose certain expenditures within five business days after the expenditure; clarifying that reporting under this section does not relieve a lobbyist from regular reporting requirements; requiring the Ethics Commission to create a form for disclosure; requiring the Ethics Commission to publish information on the Ethics Commission's website; authorizing the Ethics Commission to establish a means for electronic filing and disclosure as an alternative; and authorizing the Ethics Commission to promulgate legislative and emergency rules."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 396**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Fluharty, Folk, Hicks, Kessinger, Marcum, Maynard, Nelson, Robinson, Rodighiero, Rohrbach, Statler and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2319) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

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

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

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

**"ARTICLE 5. COUNTY BOARD OF EDUCATION.**

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

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

(b) An allopathic physician licensed to practice pursuant to the provisions of article three, chapter thirty of this code or an osteopathic physician licensed to practice pursuant to the provisions of article

fourteen, chapter thirty of this code may prescribe within the course of his or her professional practice standing orders and protocols for use when necessary by a school which wishes to maintain epinephrine auto-injector pursuant to the provisions of this section.

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

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

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

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

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

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

~~(h)~~ (i) All county boards of education are required to collect and compile aggregate data on incidents of anaphylactic reactions resulting in the administration of school maintained epinephrine

auto-injectors in their county during a school year and forward the data to the state superintendent of schools. The state superintendent of schools shall prepare an annual report to be presented to the Joint Committee on Government and Finance as set forth in article three, chapter four of this code, by December 31 of each year.

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

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

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

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

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

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

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

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

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

And,

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

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

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 397**), and there were—yeas 86, nays none, absent and not voting 14, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Fluharty, Folk, Hicks, Kessinger, Marcum, Maynard, Nelson, Robinson, Rodighiero, Rohrbach, Statler and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2373) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegate, as follows:

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

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

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

## **“CHAPTER 36. ESTATES AND PROPERTY.**

### **ARTICLE 1. CREATION OF ESTATES GENERALLY.**

#### **§36-1-20. WHEN SURVIVORSHIP PRESERVED.**

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

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

(c) ~~No~~ A person convicted of violating the provisions of section one or three, article two, chapter sixty-one of this code as a principal, aider and abettor or accessory before the fact, or convicted of a similar provision of law of another state or the United States, or who has been convicted of an offense causing the death of an incapacitated adult set forth in section twenty-nine-a, article two, chapter sixty-one of this code, as a principal, aider and abettor or accessory before the fact, or convicted of a similar provision of law of another state or the United States, may not take or acquire any real or personal property by survivorship pursuant to this section when the victim of the criminal offense was a joint holder of title to the property. The property to which the convicted person ~~so convicted~~ would

otherwise have been entitled shall go to the person or persons who would have taken the same property if the convicted person ~~so convicted~~ had predeceased the victim.

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

## CHAPTER 42. DESCENT AND DISTRIBUTION.

### ARTICLE 4. GENERAL PROVISIONS.

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

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

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

(c) A person who has been convicted of an offense of abuse or neglect of an incapacitated adult pursuant to section twenty-nine, article two, chapter sixty-one of this code, a felony offense of financial exploitation of an elderly person, protected person or incapacitated adult pursuant to section twenty-nine-b, article two, chapter sixty-one of this code, or convicted of a similar provision of law of another state or the United States, may not take or acquire any money or property, real or personal, or any interest in the money or property, from the victim of the offense, either by descent and distribution, or by will, or by any policy or certificate of insurance, or otherwise. The money or the property to which the convicted person would otherwise have been entitled shall go to the person or persons who would have taken the money or property if the convicted person had been dead at the date of the death of the victim, unless by law the money or the property would pass to some other person or persons. This subsection does not apply if, after the conviction, the victim of the offense, if competent, executes



a recordable instrument, sworn to, notarized and witnessed by two persons that would be competent witnesses to a will of the victim, expresses a specific intent to allow the convicted person to inherit or otherwise receive the money, estate or other property of the victim of the offense.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 398**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2404) passed.

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

A message from the Senate, by

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

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2453**, Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp.

A message from the Senate, by

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

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

A message from the Senate, by

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

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2676**, Transferring the Security office under the Division of Culture and History to the Division of Protective Services.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2721**, Removing the cost limitation on projects completed by the Division of Highways.

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

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

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

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

And,

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

**Com. Sub. for H. B. 2721** – “A Bill to amend and reenact §17-27-5 and §17-27-9 of the Code of West Virginia, 1931, as amended, all relating to the public-private transportation facilities act; removing the cost limitation on projects completed by the Division of Highways; and eliminating the sunset provision.”

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2722**, Eliminating the financial limitations on utilizing the design-build program for highway construction.

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

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

On page one, section two, line seventeen, after the word “program” by striking out the comma and the words “but shall not be included in expenditure limits provided by subsection (b) of this section”.

And,

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

**Com. Sub. for H. B. 2722** – “A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating to eliminating the financial limitations on utilizing the Highway Design-Build Program for highway construction; and removing obsolete language.”

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

A message from the Senate, by

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

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2731**, Clarifying civil actions heard in circuit court.

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

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

## **ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

### **§51-2-2. Jurisdiction.**

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

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

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

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

(6) Misdemeanors.

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

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

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

And,

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

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

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

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

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

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

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

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

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

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

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

And,

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

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

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 399**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2734) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

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

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

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

## **ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT**

### **§36-8-2. PRESUMPTIONS OF ABANDONMENT.**

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

(1) Traveler’s check, fifteen years after issuance;

(2) Money order, seven years after issuance;

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

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

(5) A noninterest bearing demand, savings or time deposit, including a deposit that is automatically renewable, five years after the earlier of maturity or the date of the last indication by the owner of interest in the property; an interest-bearing demand, savings or time deposit including a deposit that is automatically renewable, seven years after the earlier of maturity or the date of the last indication by the owner of interest in the property. A deposit that is automatically renewable is deemed matured for purposes of this section upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

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

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

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

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

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

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

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

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

(14) Property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, three years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable

by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty;

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2898**, Authorizing the Joint Committee on Government and Finance to request and obtain criminal background checks of employees of the Legislature.

A message from the Senate, by

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

**Com. Sub. for H. B. 2939**, Relating to the sale of items in the State Police Academy post exchange to the public.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2948**, Establishing timelines for taking final action on certain permits.

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

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

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

(4) (a) Any sterilization process used in connection herewith shall be approved by the commissioner. Every person desiring to operate such sterilization process shall first obtain a numbered permit from the commissioner and shall not operate such process unless such permit is kept conspicuously posted in his or her establishment. ~~The fee for an original permit shall be twenty-five dollars.~~ Application for such permit shall be accompanied by the specifications for the sterilization process to be employed by the applicant, in such form as the commissioner shall require. The commissioner shall take final action upon all completed permit applications within thirty days of receipt if the application is uncontested, or within ninety days if the application is contested. Such permit shall expire one year from date of issue ~~and the fee for annual renewal of the sterilization permit shall be ten dollars.~~

~~(2) Every application for a sterilization permit to be held in a state other than West Virginia shall be approved only after personal inspection of the applicant's sterilizer or disinfectant by the commissioner or an authorized employee of the bedding division of the department. The expenses for such inspections out of the state shall be paid by the applicant.~~



(3) (b) The commissioner may revoke or suspend any permit for violation of the provisions of this article. Upon notification of such revocation or suspension, the person to whom the permit was issued, or his or her successor or assignee, shall forthwith return such permit to the commissioner. ~~For reissuing a revoked or expired permit, the fee shall be the same as for an original permit.~~"

And,

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

**Com. Sub. for H. B. 2948** – “A Bill to amend and reenact §17C-17A-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1A-3a of said code; to amend and reenact §19-2A-4 of said code; to amend and reenact §19-9A-3 of said code; to amend and reenact §19-12D-7 of said code; to amend and reenact §19-15-2 of said code; to amend and reenact §19-34-6 of said code; to amend and reenact §19-35-3 of said code; to amend and reenact §20-3-5 of said code; to amend and reenact §20-7A-5 of said code; to amend and reenact §21-10-7 of said code; to amend and reenact §21-12-7 of said code; to amend and reenact §21-15-10 of said code; to amend and reenact §24A-3-3 of said code; to amend and reenact §29-3-12 of said code; to amend and reenact §29-29-4 of said code; to amend and reenact §47-1A-10 of said code, all relating generally to the issuance of permits; establishing timelines for taking final action on certain permits; modifying procedures for the issuance of permits by the Public Service Commission for activities related to the commercial transportation of coal; modifying procedures for the issuance of permits by the Division of Forestry for activities related to growing or dealing ginseng; modifying procedures for the issuance of permits by the Commissioner of Agriculture to operate a public market; modifying procedures for the issuance of permits by the Commissioner of Agriculture to feed garbage to swine; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to noxious weeds; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to the manufacture or distribution of fertilizer; modifying procedures for the issuance of permits by the Dangerous Wild Animals Board; modifying procedures for the issuance of uniform farmers market vendor permits by local health departments; modifying procedures for the issuance of burning permits by the Director of the Division of Natural Resources; modifying procedures for the issuance of permits by the Director of the Division of Natural Resources for the excavation or removal of archaeological, paleontological, prehistoric and historic features; modifying procedures for the issuance of permits by the Division of Labor to operate an amusement ride or attraction, a commercial bungee jumping site, or a zipline or canopy tour; modifying procedures for the issuance of permits by the Public Service Commission to operate as a contract carrier by motor vehicle; modifying procedures for the issuance of permits by the State Fire Marshal; modifying procedures for the issuance of permits by a nonprofit youth organization; and modifying permit fees and procedures for the issuance of permits by the Commissioner of the Division of Labor for activities related to the regulation and control of bedding and upholstery businesses.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 400**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2948) passed.

A message from the Senate, by

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

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

A message from the Senate, by

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

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

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

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

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

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

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

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 256) passed.

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

### **Resolutions Introduced**

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

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

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

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

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

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

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

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

*Resolved by the Legislature of West Virginia:*

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

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

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

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

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

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

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

Whereas, Sergeant Fleming was the ninth child out of eleven. He had three brothers: John P. Fleming, Ray Fleming, and Sherman Franklin Fleming all of Wilsondale, and seven sisters: Betty June Shrader of Lineboro, Maryland, Faye Tatro of Tampa, Florida, Debbie Buskell of Baltimore,

Maryland, Mary Davis of Jacksonville, Florida, Judy Maynard of Avon, Ohio, and Blaze Starr and Berta Gail Browning of Wilsondale; and

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

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

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

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

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

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

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

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

Whereas, In his last few years, Sergeant Fleming began reflecting on his life. He began compiling notes and started the process of writing a short story about the life and times of growing up in the 1950s. He titled it "Growing Up Lowney." It tells the story of when he was young, and going to Lowney Grade School near his childhood home. He goes into great detail, and tells everything he can remember of growing up in that area of Mingo County. He typed the story himself, and surprised his children and grandchildren each with a copy. The seven-page story is Sergeant Fleming's legacy. It is a small glimpse into the type of man that he was. Although confined to a wheelchair for the last twenty-five years of his life, Sergeant Fleming overcame many obstacles with the love and support of his family. He overcame them to become a loving father, extraordinary grandfather, and outstanding member of the community, all with a smile on his face; and

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

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

*Resolved by the West Virginia Legislature:*

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

*Further Resolved,* That the Commissioner of the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "US Army SGT Benny Fleming Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the House of Delegates forward a certified copy of this resolution to the Secretary of Transportation.

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

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

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

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

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

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

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

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

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

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

*Resolved by the Legislature of West Virginia:*

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

*Further Resolved,* That the Division of Highways is hereby requested to erect signs at both ends of the bridge containing bold and prominent letters proclaiming the bridge the "Pastor Robert L. "Bob" Barker Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the House of Delegates forward a certified copy of this resolution to the Commissioner of the Division of Highways.

Delegates Fast and Ambler offered the following resolution, which was read by its title and referred to the Committee on Rules.

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

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

*Resolved by the Legislature of West Virginia:*

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

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

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

### **Petitions**

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

### **Special Calendar**

### **Unfinished Business**

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

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

**S. C. R. 11**, USMC Lance Corporal Edwin Russell 'Snook' Danehart Memorial Bridge,

**S. C. R. 13**, US Army CPL James Russell Carter Memorial Road,

**S. C. R. 14**, US Army PVT Oren J. "Junior" Johnson Memorial Bridge,

**Com. Sub. for S. C. R. 15**, US Army CPL Herbert "Herb" Linkous Memorial Bridge,

**S. C. R. 18**, US Marine CPL Walter Vincent Filipek Memorial Bridge,

**S. C. R. 21**, US Army CPL Daniel Frederick Mehringer Memorial Bridge,

**Com. Sub. for S. C. R. 23**, Johnny O'Dell Linville Memorial Bridge,

**S. C. R. 24**, US Army PFC Joe Messe, Sr., Memorial Bridge,

And,

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

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

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

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

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

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

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

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

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

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

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

Whereas, The death of this brave American soldier and his sacrifice to his country, state and community should not go unnoticed and the naming of a section of U. S. Route 219, from its intersection with WV State Route 15 at Valley Head, West Virginia, south to the Pocahontas County line, the “U. S. Army SPC 4 Randall W. Arbogast Memorial Road” in Randolph County would be an appropriate tribute; therefore, be it

*Resolved by the Legislature of West Virginia:*

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

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the “U. S. Army SPC 4 Randall W. Arbogast Memorial Road”; and, be it

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



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

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

**S. C. R. 31**, US Navy BT2 Mark Edward Hutchison Memorial Bridge,

**S. C. R. 39**, US Army PFC Kelva H. Justice Memorial Road,

**S. C. R. 41**, US Army PV2 Mandvial S. "Bunker" Bias Memorial Bridge,

**S. C. R. 43**, Eugene Lee "Gene" Burner Memorial Bridge,

And,

**S. C. R. 45**, Home of Anna Lindquist, 1996 NHSPA Hall of Fame Inductee highway sign.

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

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

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

**H. C. R. 47**, U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

**Com. Sub. for H. C. R. 53**, US Army Corporal Jerry Lee Noble Memorial Bridge,

**Com. Sub. for H. C. R. 64**, Gill Brothers World War II Veterans' Memorial Bridge,

**Com. Sub. for H. C. R. 65**, Hobert G. 'Hobie' Underwood Memorial Bridge,

**Com. Sub. for H. C. R. 84**, U.S. Army Air Force S/SGT Harold 'Dean' Baker Memorial Bridge,

**Com. Sub. for H. C. R. 93**, Extending WV Route 93,

**Com. Sub. for H. C. R. 98**, John H. Reed, Jr. Memorial Bridge,

And,

**H. C. R. 118**, Craddock Brothers Bridge.

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

### Third Reading

**Com. Sub. for S. B. 134**, Authorizing Bureau of Commerce to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 402**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk, Rodighiero and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 134) passed.

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

**Com. Sub. for S. B. 134** - "A Bill to amend and reenact §64-10-1, §64-10-2 and §64-10-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Bureau of Commerce legislative rules; repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards under the Bureau of Commerce which are no longer authorized or are obsolete; authorizing the promulgation of legislative rules by various executive or administrative agencies of the state; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the point system for the revocation of hunting – repeal; authorizing the Division of Natural Resources to promulgate a legislative rule relating to revocation of hunting and fishing licenses; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special waterfowl hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to the commercial sale of wildlife; authorizing the Division of Natural Resources to promulgate a legislative rule relating to miscellaneous permits and licenses; repealing the Division of Natural Resources legislative rule relating to litter control grant program; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to certification, recertification and training of EMT-Miners and the certification of EMT-M instructors; and authorizing the Board of Coal Mine Health and Safety to promulgate a legislative rule relating to rules governing proximity detection systems and haulage safety generally."

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

On this question, the yeas and nays were taken (**Roll No. 403**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk, Rodighiero and Storch.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 134) takes effect from its passage.

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

**Com. Sub. for S. B. 240**, Creating crime of nonconsensual distribution of sexual images; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 404**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk, Rodighiero and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 240) passed.

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

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

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

**Com. Sub. for S. B. 255**, Relating generally to filling vacancies in elected office; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 405**), and there were—yeas 87, nays 10, absent and not voting 3, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Deem, Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 255) passed.

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

**Com. Sub. for S. B. 299**, Supplementing, amending, decreasing and increasing items of appropriations from State Road Fund to DOH; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 406**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk and Rodighiero.

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

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

On this question, the yeas and nays were taken (**Roll No. 407**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk and Rodighiero.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 299) takes effect from its passage.

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

**S. B. 339**, Creating Legislative Coalition on Chronic Pain Management; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 408**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk and Rodighiero.

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

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

**S. B. 339** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-52-1, §16-52-2, §16-52-3, §16-52-4 and §16-52-5, all relating to creating a legislative coalition on chronic pain management; setting forth findings; setting forth a purpose; providing for administrative functions of the coalition; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate; providing for appointments to be made by the Speaker of the House of Delegates; setting forth powers of the coalition; setting forth duties of the coalition; setting forth required reporting; setting forth reporting data elements; and providing a sunset date.”

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

**S. B. 345**, Allowing certain hunting and trapping on private lands on Sundays; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 409**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Deem, Folk and Rodighiero.

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

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

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

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

**S. B. 360**, Creating Legislative Coalition on Diabetes Management; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 410**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Folk and Rodighiero.

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

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

**S. B. 360** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-5Z-1, §16-5Z-2, §16-5Z-3, §16-5Z-4 and §16-5Z-5, all relating to creating the Legislative Coalition on Diabetes Management; setting forth findings and purpose; providing for administrative functions of the coalition to be performed by legislative staff; setting forth membership of the coalition; providing for appointments to be made by the President of the Senate and the Speaker of the House of Delegates; setting forth powers and duties of the coalition; setting forth required reporting; setting forth reporting data elements; requiring state entities to cooperate with the coalition in its duties; and providing a sunset date.”

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

**Com. Sub. for S. B. 402**, Relating to covenants not to compete between physicians and hospitals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 411**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Folk and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 402) passed.

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

**Com. Sub. for S. B. 441**, Establishing Municipal Home Rule Pilot Program; on third reading, coming up in regular order, was read a third time.

Delegate Howell requested to be excused from voting on questions regarding Com. Sub. for S. B. 441 under the provisions of House Rule 49.

The Speaker replied that Delegate Howell exhibits direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 412**), and there were—yeas 92, nays 2, excused 1, with the nays and absent and not voting and excused being as follows:

Nays: McGeehan and Sobonya.

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

Excused: Howell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 441) passed.

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

**S. B. 490**, Clarifying standard of liability for officers of corporation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 413**), and there were—yeas 90, nays 6, absent and not voting 4, with the nays and absent and not voting being as follows:

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

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

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

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

**S. B. 490** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §31D-8-842a, relating to the standard of liability for officers of a corporation; establishing standards of liability for officers of a corporation; providing an officer is not liable to the corporation or its shareholders for any decision to take or not to take action or any failure to take any action as an officer except in specified circumstances; providing standards a party seeking to hold an officer liable must establish when seeking money damages; providing standards a party seeking to

hold an officer liable must establish when seeking other legal remedies; and clarifying that certain actions under different code sections or the United States code are unaffected.”

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

**S. B. 578**, Relating generally to copies of health care records furnished to patients; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 414**), and there were—yeas 82, nays 14, absent and not voting 4, with the nays and absent and not voting being as follows:

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

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

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

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

**S. B. 578** – “A Bill to amend and reenact §16-29-1 and §16-29-2 of the Code of West Virginia, 1931, as amended, all relating generally to copies of health care records; providing that health care records must be furnished no more than thirty days from the receipt of the request from a patient, his or her representative, authorized agent, or authorized representative; stating that electronic copies of health records may be provided in a downloadable format through a secure web portal; permitting a personal representative to act in lieu of a patient in certain circumstances; clarifying that fees shall apply to subpoenaed records; establishing fees for providing copies of health care records; and providing that the per page fee shall be adjusted annually according to the consumer price index.”

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

**Com. Sub. for S. B. 602**, Creating uniform system of recording and indexing fictitious names used by sole proprietors; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 415**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

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

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 602) passed.

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

**Com. Sub. for S. B. 602** – “A Bill to amend and reenact §47-8-2 and §47-8-3 of the Code of West Virginia, 1931, as amended, all relating to registering and indexing of fictitious names used by sole proprietors, individuals, or general partnerships; striking exemptions; and providing that the Secretary

of State shall keep a searchable database for all persons filing forms to register and index factious names.”

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

**Com. Sub. for S. B. 606**, Relating to minimum wage and maximum hours for employees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 416**), and there were—yeas 55, nays 43, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Cooper, Dean, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Phillips, Pushkin, Pyles, Queen, Rodighiero, Rohrbach, Rowe, Sponaugle, Thompson, Wagner and Ward.

Absent and Not Voting: Folk and Williams.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 606) passed.

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

**S. B. 621**, Providing certain rules inapplicable after county board of education notifies state board of possible closing or consolidations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 417**), and there were—yeas 66, nays 32, absent and not voting 2, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Folk and Williams.

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

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

**S. B. 621** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29A-3B-13, relating to providing that at any point after a county board of education provides written notice to the state board that it has taken official action to begin the process of closing or consolidating a school or schools, any revision or supplementation to certain rules is applicable to the school closing or consolidation project described in the county board’s notification to the state board.”



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

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

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

Absent and Not Voting: Folk and Williams.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

**Com. Sub. for S. B. 631**, Prosecuting violations of municipal building code; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 419**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, McGeehan, Sobonya and Upson.

Absent and Not Voting: Folk.

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

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

**Com. Sub. for S. B. 631** – “A Bill to amend and reenact §8-12-13 and §8-12-16 of the Code of West Virginia, 1931, as amended, all relating generally to municipal ordinances and procedures; creating a procedure for misdemeanor prosecutions of violations of municipal ordinances; defining terms; providing for the designation of enforcement agencies; providing a procedure for code enforcement agency officials to enter premises for investigation or inspection of a structure, dwelling or building; granting plenary power to the governing body of every municipality to adopt an ordinance providing for the vacating, closing, removal or demolition of specific dwellings, structures or buildings by a municipality in the absence of owner agreement or court order with specific requirements; providing for notice to the owner of the right to apply to the circuit court for a temporary injunction or other similar relief; requiring a hearing to be held within twenty days if the owner makes such application to the circuit court; requiring an owner to pay a bond into court if the owner seeks a continuance of the hearing seeking a temporary injunction or other similar relief; allowing for the disbursement of moneys paid into court by an owner if a court finds that the property is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; permitting a governing body of a municipality to file a lien against the real property for an amount that reflects all costs incurred by a municipality for repairing, altering or improving, or of vacating and closing, removing or demolishing any dwelling or building; permitting a municipality to institute a civil action in circuit court against a landowner or other responsible party to obtain an order to take corrective action up to and including

demolition of any structure, dwelling or building that is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare and permitting a municipality to recover all reasonable costs and expenses incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action; providing for service of notices of violations; and providing for a procedure to prosecute ordinances adopted under the section pertaining to regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwelling or buildings that are unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.”

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

**Com. Sub. for S. B. 636**, Authorizing State Fire Commission establish program to address problems facing VFDs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 420**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cowles, Sobonya and White.

Absent and Not Voting: Folk and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 636) passed.

**S. B. 690**, Authorizing WV State Police impose and collect fees for agencies and entities using their facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 421**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Folk.

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

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

On this question, the yeas and nays were taken (**Roll No. 422**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Folk.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 690) takes effect from its passage.

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

## Second Reading

**S. J. R. 6**, Roads to Prosperity Amendment of 2017; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the resolution on page one, following the enacting section, by striking out the remainder of the resolution and inserting in lieu thereof the following:

### **“Roads to Prosperity Amendment of 2017.**

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

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

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

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

- (1) Matching available federal funds for highway and bridge construction in this state; and
- (2) General highway and secondary road and bridge construction or improvements in each of the fifty-five counties.

(c) When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax, as well as certain fees, which shall be in a sufficient amount to pay the interest on such bonds and the principal thereof as such may accrue within and not exceeding twenty-five years, which tax and fees may include, but shall not be limited to: (1) increases to fees charged by the Division of Motor Vehicles; (2) additional fees on motor vehicles fueled, in part or entirely, by alternative fuels or electricity; and (3) increases to the motor fuel excise tax. Such taxes and fees shall be levied in any year only to the extent that the moneys in the state road fund irrevocably set aside and appropriated for and applied to the payment of the interest on and the principal of said bonds becoming due and payable in such year are insufficient therefor. Any interest that accrues on the issued bonds prior to payment shall only be used for the purposes of the bonds.

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

additional fees charged by the Division of Motor Vehicles, and increases to the motor fuel excise taxes as provided by the Legislature by general law.”

The resolution was ordered to third reading.

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

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

**Com. Sub. for S. B. 40**, Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-2-25b, to read as follows:

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

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

(1) Protocols for practices and for games;

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

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

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

(c) Any person licensed by, or certified or registered in, this state to provide health care or professional health care services who renders services of a medical nature to students under this section, who has an agreement with a county board of education that defines the scope of his or her duties as such, and for which no remuneration is demanded or received, is not liable for any civil damages as a result of rendering such services, or as a result of any act or failure to act in providing or arranging further medical treatment.

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

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

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

The bill was ordered to third reading.

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

\* \* \* \* \*

### Afternoon Session

\* \* \* \* \*

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

### Special Calendar

#### Second Reading

-continued-

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

**Com. Sub. for S. B. 116**, Authorizing MAPS promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

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

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

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

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

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

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

And,

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

#### **§64-6-2. State Fire Marshal.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And,

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

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

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

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

And,

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

The bill was ordered to third reading.

**S. B. 174**, Exempting transportation of household goods from PSC jurisdiction; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §24A-1-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

## **ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.**

### **§24A-1-3. Exemptions from chapter.**

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

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

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

(3) Motor vehicles used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants, and in the transportation of agricultural or horticultural supplies to farms or orchards where they are to be used: *Provided*, That the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the safety and insurance rules promulgated by the commission;

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

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

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

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

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

(9) Motor vehicles owned, leased by or leased to any person and used exclusively for the transportation of processed source-separated recycled materials generated by commercial, institutional and industrial customers, transported free of charge or by a nonprofit recycling cooperative association in accordance with subdivision (1), subsection (d), section one, article four, chapter nineteen of this code from the customers to a facility for further processing: *Provided*, That the vehicles and their operators shall be subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

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

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

(12) Motor vehicles designated by the West Virginia Division of Public Transit operated by organizations that receive federal grants from the Federal Transit Administration: *Provided*, That the



vehicles and their operators are subject to the safety and insurance rules promulgated by the commission; ~~and~~

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

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

The bill was ordered to third reading.

**Com. Sub. for S. B. 187**, Providing for confidentiality of patients' medical records; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §27-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### **ARTICLE 3. CONFIDENTIALITY.**

#### **§27-3-1. DEFINITION OF CONFIDENTIAL INFORMATION; DISCLOSURE.**

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

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

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

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

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

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

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

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

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

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

(7) Pursuant to and as provided for under the federal privacy rule of the Health Insurance Portability and Accountability Act of 1996 in 45 CFR §164.512: *Provided*, That disclosures made pursuant to 45 CFR §164.512(e) comply with subdivision (3) of this subsection.

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

The bill was ordered to third reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 423**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Folk and Walters.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 424**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Love.

Absent and Not Voting: Dean, Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 187) passed.

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

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

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

The bill was ordered to third reading.

**Com. Sub. for S. B. 202**, Relating to pawnbrokers generally; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, section two-a, line fourteen, by striking out subsection (b) in its entirety and inserting a new subsection (b) to read as follows:

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

The bill was ordered to third reading.

**S. B. 219**, Relating to conspiracy to commit crimes under Uniform Controlled Substances Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

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

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

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

And,

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

The bill was ordered to third reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 425**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Folk, Walters and Zatezalo.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 426**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Folk, Walters and Zatezalo.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 235) passed.

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

**S. B. 235** - "A Bill to amend and reenact §17A-10-3 of the Code of West Virginia, 1931, as amended, relating to requiring that the registration fee and any other fees required by this chapter for motorcycles and parking enforcement vehicles shall be for at least one year."

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

On this question, the yeas and nays were taken (**Roll No. 427**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Folk, Walters and Zatezalo.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 235) takes effect from its passage.

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

**Com. Sub. for S. B. 238**, Increasing tax credits allowed for rehabilitation of certified historic structures; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

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

**ARTICLE 21. PERSONAL INCOME TAX.****§11-21-8A. CREDIT FOR QUALIFIED REHABILITATED BUILDINGS INVESTMENT. A CREDIT AGAINST THE TAX IMPOSED BY THE PROVISIONS OF THIS ARTICLE SHALL BE IS ALLOWED AS FOLLOWS:**

(a) Certified historic structures. – For certified historic structures, the credit is equal to ten-percent of qualified rehabilitation expenditures as defined in Title 26, §47(c)(2) of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after June 30, 2018, the credit allowed by this section is equal to fifteen percent of the qualified rehabilitation expenditure; *Provided, however*, That for qualified rehabilitation expenditures made after June 30, 2019, the credit allowed by this section is equal to twenty percent of the qualified rehabilitation expenditure; *Provided further*, That for qualified rehabilitation expenditures made after June 30, 2020, the credit allowed by this section is equal to twenty-five percent of the qualified rehabilitation expenditure; *And provided further*, That the taxpayer may not be entitled to this credit if the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with article three, chapter twenty-nine-a of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure. The Tax Commissioner may also propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the administration of this tax credit and to provide any necessary mechanism to recover credits claimed by taxpayers that become delinquent in the payment of property taxes on the property containing the historic structure or become in arrears in the payment of any tax administered by the Tax Division. This credit is available for both residential and nonresidential buildings located in this state, that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as certified historic structures, and further defined as a qualified rehabilitated building, as defined under Title 26, §47(c)(1) of the United States Code, as amended.

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

**§11-21-8e. Carryback, carryforward.**

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

(b) Effective for taxable years beginning on and after January 1, 2001, credits granted to an electing small business corporation (S corporation), limited partnership, general partnership, limited

liability company or multiple owners of property shall be passed through to the shareholders, partners, members or owners, either pro rata or pursuant to an agreement among the shareholders, partners, members or owners documenting an alternative distribution method. The Tax Commissioner shall promulgate procedural rules in accordance with article three, chapter twenty-nine-a of this code that provide the method of reporting the alternative method of distribution authorized by this section.

## **ARTICLE 24. CORPORATION NET INCOME TAX.**

### **§11-24-23A. CREDIT FOR QUALIFIED REHABILITATED BUILDINGS INVESTMENT.**

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

Certified historic structures. – For certified historic structures, the credit is equal to ten percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: Provided, That for qualified rehabilitation expenditures made after June 30, 2018, the credit allowed by this section is equal to fifteen percent of the qualified rehabilitation expenditure; Provided, however, That for qualified rehabilitation expenditures made after June 30, 2019, the credit allowed by this section is equal to twenty percent of the qualified rehabilitation expenditure; Provided further, That for qualified rehabilitation expenditures made after June 30, 2020, the credit allowed by this section is equal to twenty-five percent of the qualified rehabilitation expenditure; And provided further, That the taxpayer may not be entitled to this credit if the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with article three, chapter twenty-nine-a of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure. The Tax Commissioner shall also propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the administration of this tax credit and to provide any necessary mechanism to recover credits claimed by taxpayers that become delinquent in the payment of property taxes on the property containing the historic structure or become in arrears in the payment of any tax administered by the Tax Division. This credit is available for both residential and nonresidential buildings located in this state that are reviewed by the West Virginia Division of Culture and History and designated by the national park service, United States department of the interior as “certified historic building”, and further defined as a ‘qualified rehabilitated building’, as defined under §47(c)(1), Title 26, of the United States Code, as amended.

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

### **§11-24-23e. Carryback, carryforward.**

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

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

The bill was ordered to third reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 428**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: G. Foster.

Absent and Not Voting: Folk, Marcum and Walters.

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

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 429**), and there were—yeas 90, nays 8, absent and not voting 2, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 238) passed.

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

**S. B. 238** – “A Bill to amend and reenact §11-21-8a and §11-21-8e of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-24-23a and §11-24-23e of said code, all relating to tax credits for qualified rehabilitated buildings investment; increasing the allowable corporation net income tax credit and personal income tax credit for qualified rehabilitated buildings investments; limiting taxpayers eligible for the credits; authorizing Tax Commissioner to promulgate procedural rules and propose legislative rules; and setting limits on total aggregate tax credits in a fiscal year and limiting carry forward and carry back of unused tax credits.”

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

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

**S. B. 333**, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §60A-9-4, §60A-9-5, and §60A-9-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §60A-9-9 all to read as follows:

## **ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.**

### **§60A-9-4. Required information.**

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

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

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

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

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

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

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

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

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

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

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



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

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

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

~~(e)~~ (f) The Board of Pharmacy shall notify a physician prescribing buprenorphine or buprenorphine/naloxone within sixty days of the availability of ~~the~~ an abuse deterrent form of buprenorphine or buprenorphine/naloxone ~~is~~ if approved by the Food and Drug Administration as provided in FDA Guidance to Industry. Upon receipt of the notice, a physician may switch their patients using buprenorphine or buprenorphine/naloxone to the abuse deterrent form of the drug.

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

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

specific data related to their Drug Enforcement Administration controlled substance registration number or for the purpose of providing treatment to a patient: *Provided*, That the West Virginia Controlled Substances Monitoring Program Database Review Committee established in subsection (b) of this section is authorized to query the database to comply with said subsection.

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

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

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

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

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

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

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

(b) The ~~board~~ Board of Pharmacy shall create a West Virginia Controlled Substances Monitoring Program Database Review Committee of individuals consisting of two prosecuting attorneys from West Virginia counties, two physicians with specialties which require extensive use of controlled substances and a pharmacist who is trained in the use and abuse of controlled substances. The review committee may determine that an additional physician who is an expert in the field under investigation be added to the team when the facts of a case indicate that the additional expertise is required. The review committee, working independently, may query the database based on parameters established by the advisory committee. The review committee may make determinations on a case-by-case basis on specific unusual prescribing or dispensing patterns indicated by outliers in the system or abnormal or unusual usage patterns of controlled substances by patients which the review committee has reasonable cause to believe necessitates further action by law enforcement or the licensing board having jurisdiction over the practitioners or dispensers under consideration. The licensing board having jurisdiction over the practitioner or dispenser under consideration shall report back to the Board of Pharmacy regarding any findings, investigation or discipline resulting from the findings of the review committee within thirty days of resolution of any action taken by the licensing board resulting from the information provided by the Board of Pharmacy. The review committee shall also review notices provided by the chief medical examiner pursuant to subsection (h), section ten, article twelve, chapter sixty-one of this code and determine on a case-by-case basis whether a practitioner who prescribed or dispensed a controlled substance resulting in or contributing to the drug overdose may have breached professional or occupational standards or committed a criminal act when prescribing the controlled substance at issue to the decedent. Only in those cases in which there is reasonable cause to believe a breach of professional or occupational standards or a criminal act may have occurred, the review committee shall notify the appropriate professional licensing agency having jurisdiction over the applicable practitioner or dispenser and appropriate law-enforcement agencies and provide pertinent information from the database for their consideration. The number of cases identified shall be determined by the review committee based on a number that can be adequately reviewed by the review committee. The information obtained and developed may not be shared except as provided in this article and is not subject to the provisions of chapter twenty-nine-b of this code or obtainable as discovering in civil matters absent a court order.

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

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

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

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

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

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

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

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

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

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

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

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

(a) All practitioners, as that term is defined in section one hundred one, article two of this chapter who prescribe or dispense Schedule II, III or IV controlled substances shall register with the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or other electronic access to the program database: *Provided*, That compliance with the provisions of this subsection must be accomplished within thirty days of the practitioner obtaining a new license: *Provided, however*, That ~~no licensing board~~ the Board of Pharmacy may renew a practitioner's license without proof that the practitioner meet the requirements of this subsection.

(b) Upon initially prescribing or dispensing any pain-relieving controlled substance for a patient for whom they are providing pain-relieving controlled substances as part of a course of treatment for chronic, nonmalignant pain but who are not suffering from a terminal illness and at least annually thereafter should the practitioner or dispenser continue to treat the patient with controlled substances, all persons with prescriptive or dispensing authority and in possession of a valid Drug Enforcement Administration registration identification number and, who are licensed by the Board of Medicine as set forth in article three, chapter thirty of this code, the Board of Registered Professional Nurses as set forth in article seven of said chapter, the Board of Dental Examiners as set forth in article four of said chapter and the Board of Osteopathic Medicine as set forth in article fourteen of said chapter

shall access the West Virginia Controlled Substances Monitoring Program database for information regarding specific patients ~~for whom they are providing pain-relieving controlled substances as part of a course of treatment for chronic, nonmalignant pain but who are not suffering from a terminal illness.~~ The information obtained from accessing the West Virginia Controlled Substances Monitoring Program database for the patient shall be documented in the patient's medical record maintained by a private prescriber or any inpatient facility licensed pursuant to the provisions of chapter sixteen of this code. A pain-relieving controlled substance shall be defined as set forth in section one, article three-a, chapter thirty of this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The bill was ordered to third reading.

**Com. Sub. for S. B. 388**, Relating to dangerous weapons; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §61-7-11a and §61-7-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

#### **ARTICLE 7. DANGEROUS WEAPONS.**

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

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

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

(2) This subsection does not apply to:

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

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

(C) A retired law-enforcement officer who:

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

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

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

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

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

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

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

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

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

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

(I) Any person, twenty-one years old or older, who has a valid concealed handgun permit may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle or other areas of vehicular ingress or egress to a public school: *Provided, That:*

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

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

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

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

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

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

(d) In addition to the methods of disposition provided by article five, chapter forty-nine of this code, a court which adjudicates a person who is fourteen years of age or older as delinquent for a violation of subsection (b) of this section may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

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

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

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in subdivision (1) of this subsection, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of section two, article five-a, chapter seventeen-c of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within ten days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

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

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



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

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

(2) This subsection does not apply to:

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

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

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

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

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

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

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

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

Any person carrying or possessing a firearm or other deadly weapon on the property of another who refuses to temporarily relinquish possession of ~~such the~~ the firearm or other deadly weapon, upon being requested to do so, or to leave ~~such the~~ the premises, while in possession of ~~such the~~ the firearm or other deadly weapon, ~~shall be is~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in ~~the county~~ the county jail not more than six months, or both: *Provided*, That the provisions of this section ~~shall do~~ do not apply to ~~these persons~~ a person as set forth in ~~subsections (3) through (6) of section six of this code~~ subdivisions (3) through (7), inclusive, subsection (a), section six of this article while such persons are the person is acting in an official capacity; and to a person as set forth in subdivisions (1) through (8), inclusive, subsection (b) of said section, while the person is acting in his or her official capacity: *Provided, however*, That under no circumstances, except as provided for by the provisions of paragraph (1), subdivision (2), subsection (b), section eleven-a of this article, may any person possess or carry or cause the possession or carrying of any firearm or other deadly weapon on the premises of any primary or secondary educational facility in this state unless ~~such the~~ the person is a law-enforcement officer or he or she has the express written permission of the county school superintendent."

The bill was ordered to third reading.

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

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

**“ARTICLE 6A. POLLUTION CONTROL FACILITIES TAX TREATMENT**

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

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

And,

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

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

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

To the point of order, the Speaker replied that the purpose of the amendment different than the fundamental purpose of the bill and ruled that the amendment was not germane.

The bill was ordered to third reading.

**Com. Sub. for S. B. 440**, Relating to use of Regional Jail and Correctional Facility Authority funds; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

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

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

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

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

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

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

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

(e) These funds consist of the following:

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

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

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

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

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

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

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

(2) Amounts deposited from all other sources shall be pledged first to the debt service on any bonded indebtedness, including lease-purchase obligations entered into by the authority with another state entity or other obligation incurred by borrowing of the authority;

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

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

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

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

(g) (1) After a regional jail facility becomes available pursuant to this article for the incarceration of inmates, each county within the region shall incarcerate all persons whom the county would have incarcerated in any jail prior to the availability of the regional jail facility in the regional jail facility except those whose incarceration in a local jail facility used as a local holding facility is specified as appropriate under the standards and procedures developed pursuant to section nine of this article and who the sheriff or the circuit court elects to incarcerate therein.

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

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

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

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

The bill was ordered to third reading.

**S. B. 444**, Establishing Court Advanced Technology Subscription Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking the remainder of the bill in its entirety and inserting in lieu thereof the following:

#### **“ARTICLE 1. SUPREME COURT OF APPEALS.**

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

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

revenue fund designated the Court Advanced Technology Subscription Fund to be administered by the West Virginia Supreme Court of Appeals.

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

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

(d) All moneys collected by the administrator of the Supreme Court of Appeals for the use of the court's advanced technology shall be deposited into the Court Advanced Technology Subscription Fund. Expenditures from the fund shall be for the purposes set forth in subsection (c) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature in accordance with article three, chapter twelve of this code and upon fulfillment of the requirements of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature."

The bill was ordered to third reading.

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

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 430**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Ellington, Folk and Walters.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 431**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 454) passed.

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

**S. B. 461**, Exempting WV State Police from state purchasing requirements; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

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

The bill was read a third time and put upon its passage

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 433**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 461) passed.

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

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

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 434**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 435**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 486) passed.

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

**Com. Sub. for S. B. 486** - "A Bill to amend and reenact §11-27-38 of the Code of West Virginia, 1931, as amended, relating to health care provider taxes; making conforming amendments consistent with federal law; changing the rate of tax on eligible acute care hospitals for fiscal year 2018; modifying eligibility criteria for "eligible acute care hospital;" removing conditions precedent for taxation; changing condition precedent for the automatic suspension of taxation; specifying purposes for which funds may be collected; providing for distribution of remaining funds at the end of fiscal year; providing for an effective date; and extending the expiration date for the tax."

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

On this question, the yeas and nays were taken (**Roll No. 436**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 486) takes effect July 1, 2017.

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

**Com. Sub. for S. B. 515**, Relating to parole requirements for hearings and release; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 523**, Converting to biweekly pay cycle for state employees; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, after the enacting clause by striking out everything after the enacting clause and inserting in lieu thereof the following:

"That §4-2A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11B-2-12 of said code be amended and reenacted; that §12-3-12a and §12-3-13b of said code be amended and reenacted; that §15-2-5 of said code be amended and reenacted; that §18-3-1 of said code be amended and reenacted; that §20-1-5 of said code be amended and reenacted; that §20-7-1 of said code be amended and reenacted; that §22C-1-4 of said code be amended and reenacted; that §24-1-3 of said code be amended and reenacted; that §24A-6-6 of said code be amended and reenacted; that §24B-5-2 of said code be amended and reenacted; that §25-1-19 of said code be amended and reenacted; that §31-19-4 of said code be amended and reenacted; that §33-2-2 of said code be amended and reenacted; that §50-1-8 and §50-1-9 of said code be amended and reenacted; that §51-7-3 and §51-7-5 of said code be amended and reenacted; that §51-8-2 of said code be amended and reenacted; and that §62-12-5 of said code be amended and reenacted, all to read as follows:

**CHAPTER 4. THE LEGISLATURE.****ARTICLE 2A. COMPENSATION FOR AND EXPENSES OF MEMBERS OF THE LEGISLATURE.****§4-2A-2. Basic compensation for services; proration.**

(a) Beginning in the calendar year 2009 and for each calendar year after that, each member of the Legislature shall receive as basic compensation for his or her services the sum of \$20,000 per calendar year, to be paid as provided in subsection (b) of this section. In addition to the basic compensation, members shall receive the additional compensations as are expressly provided in sections three, four and five of this article. All other increased amounts or new amounts in respect to the compensation of members of the Legislature, set forth in the resolution of the Citizens Legislative Compensation Commission, dated January 9, 2007, and implemented in sections two, four, six and eight of this article providing for new amounts or amounts increased to new amounts greater than those in force and effect on January 1, 2007, become effective for calendar year 2009 and each calendar year after that: *Provided*, That increased amounts or new amounts in respect to the expenses of members of the Legislature, set forth in said resolution, and implemented in sections six and eight of this article providing for new amounts or amounts increased to new amounts greater than those in force and effect on January 1, 2007, become effective for calendar year 2008 and each calendar year after that.

(b) The basic compensation is payable as follows:

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

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

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

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

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

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

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

**CHAPTER 11B. DEPARTMENT OF REVENUE.****ARTICLE 2. STATE BUDGET OFFICE.****§11B-2-12. Submission of expenditure schedules; contents; submission of information on unpaid obligations; copies to Legislative Auditor.**



(a) Prior to the beginning of each fiscal year, the spending officer of a spending unit shall submit to the secretary a detailed expenditure schedule for the ensuing fiscal year. The schedule shall be submitted in such form and at such time as the secretary may require. The schedule shall show:

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

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

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

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

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

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

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

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

(e) In the event the Legislative Auditor determines from certified reports or from other sources that any spending unit is not making all payments and transfers for employee benefits from funds appropriated for that purpose, the Legislative Auditor shall notify the secretary of administration, Auditor and Treasurer of the determination and thereafter no funds appropriated to the spending unit shall be encumbered or expended for the salary or compensation to the head of the spending unit until the Legislative Auditor determines that the payments or transfers are being made on a timely basis.

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

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.**

#### **§12-3-12a. Payment of salaries of employees of ~~West Virginia board of regents~~ Higher Education Policy Commission, Council for Community and Technical College Education**

**and institutions of higher education in ~~twelve equal monthly installments~~ over the twenty-six biweekly pay cycle.**

Notwithstanding the provisions of section twelve of this article, in the event that an employee of the ~~West Virginia board of regents~~ Higher Education Policy Commission, Council for Community and Technical College Education or of any of the institutions which ~~it governs~~ they govern elects to receive his or her salary in ~~twelve equal monthly installments over the complete twenty-six biweekly pay cycle,~~ warrants may be drawn for the ~~last two such installments in~~ biweekly pay periods covering the months of July and August following the fiscal year during which such salary was earned: *Provided,* That such warrants have been encumbered by ~~said board of regents~~ the commission, council or institution and the Budget Office prior to June 30 of said fiscal year.

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

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

**CHAPTER 15. PUBLIC SAFETY.**

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

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

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

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

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the

evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

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

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

Cadet During Training	<del>\$ 2,833 Mo.</del>	\$ 33,994
Cadet Trooper After Training	<del>\$ 3,438 Mo.</del>	\$ 41,258
Trooper Second Year.....		42,266
Trooper Third Year.....		42,649
Senior Trooper.....		43,048
Trooper First Class .....		43,654
Corporal.....		44,260
Sergeant.....		48,561
First Sergeant .....		50,712
Second Lieutenant.....		52,862
First Lieutenant .....		55,013
Captain .....		57,164
Major.....		59,314
Lieutenant Colonel.....		61,465

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION

I .....	42,266
II .....	43,048
III .....	43,654
IV .....	44,260
V .....	48,561

VI .....	50,712
VII .....	52,862
VIII .....	55,013

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

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

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

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

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

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

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

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with article three, chapter twenty-nine-a of this code to establish the number of hours ~~per month~~ which constitute the standard ~~work-month~~ pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard ~~work-month~~ pay period. The superintendent shall certify ~~monthly~~ at least twice per month to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard ~~work-month~~ pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed ~~\$400 monthly~~ \$200.00 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

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

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

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

## CHAPTER 18. EDUCATION.

### ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

#### **§18-3-1. Appointment; qualifications; compensation; traveling expenses; office and residence; evaluation.**

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

Commission on Education Accountability upon request concerning its progress during any hiring process for a state superintendent.

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

## **CHAPTER 20. NATURAL RESOURCES.**

### **ARTICLE 1. ORGANIZATION AND ADMINISTRATION.**

#### **§20-1-5. Salary, expenses, oath and bond of director.**

The director shall receive an annual salary as provided in section two-a, article seven, chapter six of this code, payable ~~in equal monthly installments~~ at least twice per month and shall be allowed and paid necessary expenses incident to the performance of his or her official duties. Prior to the assumption of the duties of his or her office, he or she shall take and subscribe to the oath required of public officers by the Constitution of West Virginia and shall execute a bond, with surety approved by the Governor, in the penal sum of \$10,000, which executed oath and bond shall be filed in the office of the Secretary of State. Premiums on the bond shall be paid from division funds.

### **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

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

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

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

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

exercise all powers and duties prescribed in section four of this article for full-time salaried natural resources police officers except the provisions of subdivision (8), subsection (b) of said section.

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

(e) The Director of the Division of Forestry is authorized to appoint and revoke Division of Forestry special natural resources police officers who are full-time civil service personnel who have satisfactorily completed a course of training as required by the Director of the Division of Forestry. The jurisdiction, powers and duties of Division of Forestry special natural resources police officers are set forth by the Director of the Division of Forestry pursuant to article three of this chapter and articles one-a and one-b, chapter nineteen of this code.

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

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

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

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

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

(k) Notwithstanding any provision of this code to the contrary, the provisions of subdivision (6), subsection c, section twelve, article twenty-one, chapter eleven of this code are inapplicable to pensions of natural resources police officers paid through the Public Employees Retirement System.

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

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

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

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

(c) All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his or her duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$25,000 in the manner provided in article two of said chapter. The Governor may remove any board member for cause as provided in article six of said chapter.

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

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

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



## CHAPTER 24. PUBLIC SERVICE COMMISSION.

### ARTICLE 1. GENERAL PROVISIONS.

#### §24-1-3. Commission continued; membership; chairman; compensation; quorum.

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

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

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

(d) Each commissioner shall, before entering upon the duties of his or her office, take and subscribe to the oath provided by section five, article IV of the Constitution of West Virginia. The oath shall be filed in the office of the Secretary of State.

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

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

(g) No person while in the employ of, or holding any official relation to, any public utility subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject to the provisions of this chapter or who is pecuniarily interested in a public utility subject to the provisions of this chapter may serve as a member of the commission or as an employee of the commission.

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

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

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

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

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

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

**CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

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

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

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

(a) For each uniform identification card ..... \$ 3.00

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

- of one ton or less capacity..... \$ 9.00
- of over one to one and one-half tons capacity ..... 13.50
- of over one and one-half tons to two tons capacity ..... 18.00
- of over two tons to three tons capacity ..... 22.50
- of over three tons to four tons capacity ..... 27.00
- of over four tons to five tons capacity ..... 31.50
- of over five tons to six tons capacity ..... 36.00
- of over six tons to seven tons capacity ..... 40.50
- of over seven tons to eight tons capacity ..... 45.00
- of over eight tons to nine tons capacity ..... 49.50

of over nine tons to ten tons capacity ..... 54.00

of over ten tons capacity, \$54.00 plus \$4.50 for each additional ton of capacity in excess of ten tons.

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

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

of ten passengers or less ..... \$13.50

of eleven to twenty passengers, inclusive ..... 22.50

of twenty-one to thirty passengers, inclusive ..... 31.50

of thirty-one to forty passengers, inclusive ..... 45.00

of over forty passengers ..... 54.00

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

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

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

**CHAPTER 24B. GAS PIPELINE SAFETY.**

**ARTICLE 5. EMPLOYEES OF COMMISSION; FUNDING.**

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

Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in

addition to all other salary or compensation otherwise provided for by law, to be paid ~~in monthly installments~~ at least twice per month from the Public Service Commission Pipeline Safety Fund.

## CHAPTER 25. DIVISION OF CORRECTIONS.

### ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

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

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

## CHAPTER 31. CORPORATIONS.

### ARTICLE 19. WEST VIRGINIA COMMUNITY INFRASTRUCTURE AUTHORITY.

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

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

The authority shall be controlled, managed and operated by the five-member board known as the West Virginia Community Infrastructure Board, which is hereby created. The Director of the West Virginia Development Office, or her or his designee, the Director of the Division of Environmental Protection, or her or his designee, and the Commissioner of the Division of Highways, or her or his designee, are members ex officio of the board. The Executive Director of the West Virginia Development Office, or her or his designee, is the ex officio chair. Two members of the board shall be representative of the general public, one of which shall have had experience or a demonstrated interest in local government. The two members who are not ex officio members of the board shall be appointed by the Governor, by and with the advice and consent of the Senate, for initial terms of three and six years, respectively. The successor of each such appointed member shall be appointed for a term of six years in the same manner as the original appointments were made, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which her or his predecessor was appointed shall be appointed only for the remainder of such term. Each board member shall serve until the appointment and qualification of her or his successor. The two appointed board

members shall not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms, not to exceed two consecutive full terms. All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon her or his duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$20,000 in the manner provided in article two, chapter six of this code. The Governor may remove any board member for cause as provided in article six, chapter six of this code.

Annually the board shall elect one of its appointed members as chair, and shall appoint a secretary-treasurer, who need not be a member of the board. Three members of the board is a quorum and the affirmative vote of three members is necessary for any action taken by vote of the board. No vacancy in the membership of the board impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority. The person appointed as secretary-treasurer, including a board member if she or he is so appointed, shall give bond in the sum of \$50,000 in the manner provided in article two, chapter six of this code.

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

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

(c) The director, or her or his designee, may employ or appoint any staff members in addition to those provided by the West Virginia Development Office, including general or special counsel if the position is established by the board. The number of employees needed, the positions to be filled and their salaries or wages shall be determined by the director with the approval of the board, unless the board elects to not require its approval. At any time the board may elect to change its decision concerning approval of additional staff hiring and salaries.

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

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 2. INSURANCE COMMISSIONER.**

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

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

## CHAPTER 50. MAGISTRATE COURTS.

### ARTICLE 1. COURTS AND OFFICERS.

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

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

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

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

(d) The magistrate court clerk, or if there is no magistrate court clerk in the county, the clerk of the circuit court, may issue all manner of civil process and require the enforcement of subpoenas and subpoenas duces tecum in magistrate court.

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

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

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

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

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

- (1) The preparation of summons in civil actions;
- (2) The assignment of civil actions to the various magistrates;
- (3) The collection of all costs, fees, fines, forfeitures and penalties which are payable to the court;
- (4) The submission of moneys, along with an accounting of the moneys, to appropriate authorities as provided by law;
- (5) The daily disposition of closed files which are to be located in the magistrate clerk's office;
- (6) All duties related to the gathering of information and documents necessary for the preparation of administrative reports and documents required by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court;
- (7) All duties relating to the notification, certification and payment of jurors serving pursuant to the terms of this chapter; and
- (8) All other duties or responsibilities whereby the magistrate assistant is accountable to the magistrate court clerk as determined by the magistrate.

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

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

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

## **CHAPTER 51. COURTS AND THEIR OFFICERS.**

### **ARTICLE 7. OFFICIAL REPORTERS.**

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

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

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

If neither of the methods of compensation provided for in section three of this article be adopted, a salary may be allowed in lieu of all other compensation, which shall be paid ~~monthly~~ at least twice per month, out of the State Treasury, in such proportions as the court or judge may fix in accordance with the rules of the Supreme Court of Appeals. All fees for services rendered by the official reporter in the discharge of his or her duties as such, when he or she is allowed a salary under the provisions of this section, may be collected, and shall, when collected by the sheriff or official reporter, be paid into the State Treasury; and it shall be the duty of such reporter to make out, sign and deliver to the sheriff a fee bill in every case, civil or criminal, giving the style thereof and the amount due, and from whom, which amount may be collected or levied for by the sheriff, and such fee bill shall have the force and effect of an execution when levied. An official reporter compensated under the provisions of this section shall collect the fees mentioned in section four of this article for any transcript of his or her shorthand notes of the testimony or proceedings furnished by him or her to any party, and shall pay the same over to the sheriff of the county in which the services were performed, to be by him or her accounted for and paid into the State Treasury.

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

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

The Supreme Court of Appeals, or the judges thereof in vacation, shall appoint a competent librarian to have immediate custody of the West Virginia Law Library under the direction of the court. Such librarian shall give bond in a penalty fixed by the court of not less than two nor more than \$5,000, with surety thereon, to be approved by the court, and conditioned as provided for official bonds. Such bond shall be deposited for safekeeping with the clerk of the court. The librarian shall be an officer of the court and shall hold his or her office and be removable at its pleasure. Vacancies in the office of



librarian occurring during vacation of the court may be filled by appointment in writing made by the judges of the court, or any three of them. When, in the opinion of the court, other employees are needed for the proper protection and use of the library, it may employ such assistants as may be necessary for that purpose. The salary of the librarian and assistants shall be fixed by the court and shall be payable in monthly installments paid at least twice per month.

## CHAPTER 62. CRIMINAL PROCEDURE.

### ARTICLE 12. PROBATION AND PAROLE.

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

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

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

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

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

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

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

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

with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.”

page ten, section five, line eighty-eight, by striking out the underlined dollar amount “\$184.62” and inserting in lieu thereof the following dollar amount “\$200.00”.

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

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 437**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

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

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 438**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 523) passed.

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

On this question, the yeas and nays were taken (**Roll No. 439**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Folk, Robinson and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 523) takes effect from its passage.

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

**Com. Sub. for S. B. 533**, Relating to taxes on wine and intoxicating liquors; on second reading, coming up in regular order, was read a second time and ordered to third reading.

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

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

The bill was ordered to third reading.

**S. B. 547**, Modifying fees paid to Secretary of State; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page nine, section two, line one hundred four, by striking out subsection (g) in its entirety and inserting in lieu thereof the following:

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

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

The bill was ordered to third reading.

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

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 440**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

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

Delegate C. Miller requested to be excused from voting on the passage of S. B. 608 under the provisions of House Rule 49.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 441**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

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

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

On this question, the yeas and nays were taken (**Roll No. 442**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 608) takes effect from its passage.

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

**Com. Sub. for S. B. 622**, Relating generally to tax procedures and administration; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting clause, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

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

## CHAPTER 11. TAXATION

### ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

determining that the lien is unenforceable, or in accordance with such other criteria as the Tax Commissioner may prescribe pursuant to rule.

## CHAPTER 38. LIENS.

### ARTICLE 10C. STATE AND LOCAL TAX LIENS.

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

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

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

The bill was ordered to third reading.

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

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

"That §18-2-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted and to amend said code by adding thereto a new article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5 and §18-5F-6, all to read as follows:

### ARTICLE 2. STATE BOARD OF EDUCATION.

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

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

The West Virginia Secondary School Activities Commission ~~shall be~~ is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the state superintendent of Schools that they have elected to delegate the control, supervision and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to ~~said the~~ commission. The West Virginia Secondary School Activities Commission ~~is hereby empowered to~~ may exercise the control, supervision and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules ~~and regulations~~ of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter twenty-nine-a of this code, but ~~shall~~ are, in all instances ~~be~~ subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of 'West Virginia Secondary School Activities Commission, Inc.,' as a nonprofit, nonstock corporation under the provisions of chapter thirty-one of this code. County boards of education ~~are hereby authorized to~~ may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to ~~such the~~ commission, as well as moneys derived from any contest or other event sponsored by ~~said the~~ commission, ~~shall be~~ are quasi-public funds as ~~the same are~~ defined in article five, chapter eighteen, and ~~such the~~ funds of the commission ~~shall be~~ are subject to an annual audit by the State Tax Commissioner.

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

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

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

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

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

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

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

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

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

### **§18-5F-1. Short title.**

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

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

(a) The Legislature finds and declares that:

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

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

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

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

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

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

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

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

### **§18-5F-3. Definitions.**

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

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



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

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

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

(b) 'Eligible student' means a student eligible for attendance in public schools in a school district that provides a virtual instruction program, that is a member of a multicounty consortium providing a virtual instruction program or that does not provide a virtual instruction program and is not a member of a multicounty consortium, but participates through a collaborative agreement between the school district in which the student is enrolled and a school district or a multicounty consortium providing a virtual instruction program;

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

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

#### **§18-5F-4. County board policy adoption.**

(a) A county board or a multicounty consortium may create a virtual instruction program for one or more schools serving any composition of grades kindergarten through twelve by adopting a policy creating the program and after adopting the policy may contract with virtual school providers. When there is a multicounty consortium, each county board in the consortium shall adopt a policy creating the virtual instruction program. The virtual instruction program may begin July 1, 2017, or at any point thereafter: *Provided*, That, notwithstanding any other provision of this article to the contrary, no eligible students in grades kindergarten through five may participate in a virtual instruction program until after the program has been in operation for one full school year.

(b) The policy adopted by the county board pursuant to this section shall govern the virtual instruction program offered by the county board or multicounty consortium.

(c) The policy shall be consistent with this article and may offer eligible students in grades kindergarten through twelve an online pathway for earning a high school diploma and, at a minimum, shall include the following:

(1) The scope, instructional model and capacity for the virtual education program;

(2) Assessment protocol and specific requirements for monitoring performance that are consistent with section five, article two-e of this chapter;

(3) A plan for monitoring students receiving virtual instruction in accordance with pacing and completion of the required virtual coursework; *Provided* that, virtual instruction that occurs in a public school classroom must have a teacher, employed by that county, present;

(4) Qualifications of faculty, which at a minimum shall include a teaching certificate issued pursuant to article three, chapter eighteen-a of this code and state board rules; and

(5) A requirement that any virtual school provider contracted with comply with state and federal privacy laws.

**§18-5F-5. Compliance with existing state law**

(a) An eligible student enrolled in a virtual instruction program shall:

(1) Be counted in the net enrollment of the school district in which the student resides for the purposes of calculating and receiving state aid;

(2) Be subject to the same state assessment requirements as other students in the school district;  
and

(3) Receive a diploma from the school district, upon completing the same coursework required of regular public school students in the district.

(b) An eligible student participating in a virtual instruction program, to the extent the program as delineated in the county board policy allows or requires instruction to occur outside of a school building, is not required to comply with compulsory school attendance requirements set forth in article eight of this code or any other provision of law or state board rule relating to attendance.

(c) Neither the school district, the eligible student nor the parents of the student participating in a virtual instruction program, to the extent the program as delineated in the county board policy allows or requires instruction to occur outside of a school building, may incur any penalty or be held accountable for the absence of the student from the school building.

(d) For an eligible student participating in a virtual instruction program, neither the school district nor the student, to the extent the program as delineated in the county board policy is a learn at your own pace program, is required to comply with the instructional term requirement set forth in section forty-five, article five of this chapter or any other law or state board rule requiring a student to be receiving instruction for any set time.

(e) An eligible student participating in a virtual instruction program shall be considered to be attending the school in the attendance district created by the county board pursuant to section sixteen, article five of this chapter that the eligible student resides in unless otherwise transferred to another school pursuant to that section or any other provision of this code. The eligible student may participate in any cocurricular and extracurricular activities of that school, but is subject to the same participation requirements imposed on a traditional student attending the school. If the student transfers from a traditional school to the virtual model, he or she will be subject to the West Virginia Secondary Schools Athletic Commission transfer rules.

(f) A county board is exempt from any provision of law or state board rule that applies to the traditional delivery of instruction such as requirements relating to the physical presence of a student, student monitoring and security, the maximum teacher-pupil ratio set forth in section eighteen-a, article five of this chapter, instructional time requirements and physical education requirements to the extent any of the foregoing conflict with the delivery of the virtual instruction program.

(g) The virtual instruction program is not subject to online course restrictions imposed by the state board, state superintendent or the West Virginia Department of Education.

(h) Coursework offered through a virtual instruction program shall be aligned to the appropriate academic standards as required by state law and state board rule.

(i) The assessment results of a student shall be included in the assessment results of the school and the school district in which the student is considered enrolled pursuant to this section for purposes of accountability.

**§18-5F-6. Report to Legislative Oversight Commission on Education Accountability.**

At the end of the first year any virtual instruction program is implemented pursuant to this article, the West Virginia Department of Education, after consulting with the county board or boards implementing the program, shall report to the Legislative Oversight Commission on Education Accountability on all aspects of the program. The report, at least, shall include the grade levels of the students the program was offered to; the number of students who enrolled in the program; the number of students who were enrolled in the program full-time and number who participated in a blended program; the number of students who were homeschooled, enrolled in a private school and enrolled in a public school immediately preceding enrollment in the virtual instruction program; and how the students performed academically as compared with students in a traditional classroom setting.

Delegate Westfall moved to amend the amendment, on page six, section four, line nineteen, after the word 'coursework', by striking out "*Provided that*, Virtual instruction that occurs in a public school classroom must have a teacher, employed by that county, present" and inserting in lieu thereof the following:

"*Provided*, That if virtual instruction occurs in a public school classroom then a teacher, professional personnel, professional educator, or paraprofessional employed by that county must be present to monitor."

Delegate Byrd arose to a point of order as to the germaneness of the strike and insert amendment.

To the point of order the Speaker replied, ruling that the amendment was germane to the fundamental purpose of the bill.

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

The yeas and nays having been ordered, they were taken (**Roll No. 443**), and there were—yeas 57, nays 40, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Anderson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Harshbarger, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, R. Miller, Moye, Pethtel, Pyles, Rodighiero, Rohrbach, Sponaule, Thompson, Wagner and Williams.

Absent and Not Voting: Arvon, Folk and Walters.

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

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

The yeas and nays having been ordered, they were taken (**Roll No. 444**), and there were—yeas 53, nays 44, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Baldwin, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Cooper, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, R. Miller, Moye, Nelson, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner and Williams.

Absent and Not Voting: Arvon, Folk and Walters.

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

An amendment, recommended by the Committee on Education, was reported by the Clerk on page five, section five, line twenty-seven, after the word "school", by inserting the following, "If a student transfers from a traditional school to the virtual model, he or she will be subject to the West Virginia Secondary Schools Athletic Commission transfer rules."

Whereupon,

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

An amendment, recommended by the Committee on Education, was reported by the Clerk on page four, section four, line nineteen, after the word "coursework", by inserting the following:

*"Provided* that, virtual instruction that occurs in a public school classroom must have a teacher, employed by that county, present."

Whereupon,

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

An amendment was reported, offered by Delegate Westfall amending the bill on page four, section four, line nineteen, after the word "coursework", by inserting the following:

*"Provided*, That if virtual instruction occurs in a public school classroom then a teacher, professional personnel, professional educator, or paraprofessional employed by that county must be present to monitor."

Whereupon,

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

The bill was ordered to third reading.

**Com. Sub. for S. B. 637**, Relating to private club operations requirements; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was suspended to permit the offering and consideration of amendments on that reading.

**Com. Sub. for S. B. 656**, Relating to Student Data Accessibility, Transparency and Accountability Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page five, section five-h, line one hundred eight, after the word "aid" by striking out the word "and" and inserting in lieu thereof the word "or".

An amendment recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page five, section five-h, line ninety-five, by striking out the following: "Except for subparagraph (iv) of this paragraph, the" and inserting in lieu thereof "The".

On page five, section five-h, line one hundred eight, after the word "opportunities" by inserting the word "and".

On page five, section five-h, line one hundred thirteen, by striking out the word "and".

And

On page five, section five-h, lines one hundred fourteen through one hundred seventeen, by striking out sub paragraph (iv).

An amendment recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page five, section five-h, line one hundred five, by striking out the word "sixteen" and inserting in lieu thereof "fifteen".

And,

On page five, section five-h, line one hundred six, by striking out the word "sixteen" and inserting the word "fifteen".

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 445**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum, Sobonya and White.

Absent and Not Voting: Folk and Walters.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 446**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Blair, Hamilton, Martin, Paynter, Robinson, Rowe and Upson.

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 656) passed.

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

**Com. Sub. for S. B. 656** – “A bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to allowing certain comprehensive statewide student assessment program vendors to only receive consideration for certain information if they obtain affirmative written consent solely for providing a student access to employment, educational scholarships or financial aid, or post-secondary educational opportunities.”

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

**S. B. 658**, Establishing procedure for retitling mobile and manufactured homes; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 447**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

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

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 448**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 658) passed.

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

**S. B. 667**, Limiting authority of Attorney General to disclose certain information provided by Tax Commissioner; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Delegate Cowles moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 449**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Folk, Queen and Walters.

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

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 450**), and there were—yeas 80, nays 18, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Hornbuckle, Isner, Love, Lynch, Marcum, Miley, Robinson, Rowe, Sponaugle and Williams.

Absent and Not Voting: Folk and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 667) passed.

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

On this question, the yeas and nays were taken (**Roll No. 451**), and there were—yeas 73, nays 24, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Isner, Love, Lynch, Marcum, Miley, R. Miller, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Folk, R. Romine and Walters.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 667) takes effect from its passage.

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

**S. B. 686**, Exempting facilities governed by DHHR that provide direct patient care; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, following the enacting section, by striking out the remainder of the bill in its entirety, and inserting in lieu thereof, the following:

### **ARTICLE 3. PURCHASING DIVISION.**

#### **§5A-3-3a. Exemption of facilities providing direct patient care services that are managed, directed, controlled and governed by the Secretary of the Department of Health and Human Resources.**

“Notwithstanding any provisions of sections one or three of this article to the contrary, the provisions of this article do not apply to facilities providing direct patient care services that are managed, directed, controlled and governed by the Secretary of the Department of Health and Human Resources: *Provided*, That on or before July 1, 2020, the Legislative Auditor shall audit the purchasing procedures of the facilities described in this subdivision and report the results to the Joint Committee on Government and Finance on the effects of exempting said facilities from the provisions of this article, including but not limited to, any realized cost savings and changes in purchasing policies resulting from such exemption.”

And,

By striking out the enacting section in its entirety and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-3-3a to read as follows” and a colon.

The bill was ordered to third reading.

**S. B. 687**, Relating generally to coal mining, safety and environmental protection; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Energy, was reported by the Clerk and adopted, amending the bill on page forty-two, section three, line twenty-eight, by striking out “2018” and inserting “2017”, and after “2017”, by striking the remainder of the sentence and inserting in lieu thereof the following:

“shall continue to serve for a minimum of three years until June 30, 2020.”

On page forty-eight, section six, on line three, by striking out “2018” and inserting “2017”, and by striking out the word “one” and inserting the word “three”, and after the word “term”, by inserting “until June 30, 2020”.

Delegates Fleischauer and Rowe moved to amend the bill on page thirty, section seven-b, lines forty-seven and forty-eight, by reinserting the words “(i) Supports a balanced aquatic community that is diverse in species composition” and a semicolon.

And,

On page thirty, section seven-b, line forty-eight, by striking out the “(i)” and reinserting in lieu thereof “(ii)”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 452**), and there were—yeas 10, nays 89, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Fleischauer, Hornbuckle, Isner, Lynch, Miley, Moore, Pushkin, Pyles, Rowe and White.

Absent and Not Voting: Folk.

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

The bill was ordered to third reading.

**S. B. 691**, Relating to off-road vehicles; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page three, section two, line nine, after the word “Authority”, by inserting a comma and the words “or other regional recreation authorities,” and a comma.



On page three, section two, line seventeen, after the words "Off-highway vehicle", by inserting a comma and the words "off-highway recreational vehicle".

On page three, section two, line twenty-six, after the word "Authority", by inserting the words "or other regional recreation authorities" and a comma.

And,

On page four, section two, line twenty-seven, after subdivision seven, by inserting a new subdivision, designated subdivision eight, to read as follows:

"(8) Regional recreational authority" means the Hatfield-McCoy Regional Recreation Authority or any regional recreation authority established and organized pursuant to the provisions of article fourteen-a of this chapter; and".

And renumbering the remaining subdivisions.

The bill was ordered to third reading.

**S. B. 694**, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration; on second reading, coming up in regular order, was read a second time, advanced to third reading and the rule was suspended to permit the offering and consideration of amendments on that reading.

**Com. Sub. for S. B. 27**, Relating to microprocessor permit; on second reading, having been moved to the foot of the calendar in earlier proceedings, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk, on page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

#### **"ARTICLE 35. FARMERS MARKETS.**

##### **§19-35-5. Microprocessor permit.**

(a) Notwithstanding any provision of chapter sixteen of this code or any rules promulgated pursuant to that chapter to the contrary, a farmer's market vendor may apply for a microprocessor permit to sell certain foods at a farmer's market. A home, farm, community or commercial kitchen may be used by a microprocessor. The microprocessor permit is required in addition to the farmer's market vendor permit.

(b) A majority of all produce from a microprocessor's products shall be from his or her farm or garden. The microprocessor is required to keep production and food source records for a period of two years. The food shall be labeled in compliance with the West Virginia Department of Agriculture labeling standards and provide information about its content and sources. The label shall include the words "MADE IN A WV KITCHEN – NOT FOR RESALE/ PROCESSED AND PREPARED WITHOUT STATE INSPECTION" in capital, bold, 10-point type or larger, with the blank space to state whether the product was made in a home, farm, community or commercial kitchen. The label shall also include:

(1) The name and address of the home-based processing operation;

(2) The common or usual name of the food product;

(3) Product ingredients that include potential food allergens such as, but not limited to, milk, eggs, peanuts, tree nuts, wheat and soy;

(4) The date the product was processed.

(c) A microprocessor permit is permitted to sell:

(1) Canned acidified foods, such as pickled products, sauces and salsas. Acidified foods are low-acid foods to which acid or acid foods are added with a water activity of greater than .085 and a finished equilibrium of pH 4.6 or below; and

(2) Frozen fruits and vegetables, which are not permitted to be vacuum-sealed.

(d) Nonpotentially hazardous foods, and those already exempted, do not require a microprocessor permit but require registration with the local health department. These include, but are not limited to:

(1) Breads, cakes and candies;

(2) Honey, maple syrup, apple butter and molasses;

(3) Standardized nondietary jams and jellies;

(4) Fermented products;

(5) Whole or chopped tomatoes, tomato sauce and tomato juice having a finished equilibrium of pH 4.6 or below;

(6) Exempted condiments; and

(7) Dehydrated fruits and vegetables.

(e) To qualify for a microprocessor permit, the applicant shall:

(1) If the microprocessor makes acidified foods, they are required to complete either a training program from the Better Control Process School for acidified foods, an approved program set up by the West Virginia University Extension Service or an approved training course approved by the Department of Agriculture;

(2) Pass a pre-opening inspection conducted by the local health department at the microprocessor's kitchen. The local health department may conduct an inspection during the processing season at the microprocessor's kitchen if a food born illness is reported. The local health department shall give the microprocessor at least forty-eight-hour notice prior to an inspection of a kitchen. The local health department may suspend operations or recall products for disease outbreaks, or violations of rules or regulations. Any inspection by a local health department shall be in compliance with rules promulgated by the West Virginia Department of Health and Human Resources pursuant to section four of this article;

(3) In addition to the pre-opening inspection, the micro-processor must complete an initial food manufacturing processing inspection by a district sanitarian, a West Virginia State University or a

West Virginia University extension agent. No additional processing inspections are required unless an incorrect procedure has been reported or if a new product is introduced for sale;

(4) Possess a valid food handler's permit from the local health department, if required;

(5) Use a USDA or West Virginia University pre-approved and tested recipe; and

(6) Pay an annual permit fee of not more than \$40 to the local health department issuing the microprocessor permit.

(f) A person may not offer for sale microprocessed products over the Internet or interstate;

(g) A person who purchases a product made by a microproducer shall not resell the product;

(h) Microprocessors shall not sell more than five thousand units per year in the aggregate;

(i) The following prohibitions shall apply to persons microprocessing food for sale at a nonconsignment farmer's market pursuant to a permit granted by the provisions of this section:

(1) No animals are permitted in the microprocessor's kitchen or storage area at any time during the production, preparation, processing or packing of products;

(2) Smoking is not permitted in any portion of the microprocessor's home which is used for preparation, packaging, storage or handling of food and related ingredients or equipment while food is being prepared, packaged, stored or handled."

On motion of Delegate C. Miller, the amendment was amended on page three, section five, line sixty-one, by striking out the word "nonconsignment".

On motion of Delegate Summers, the amendment was amended on page one, section five, line nineteen, by striking out the word "permit".

On page two, section five, by striking out all of subdivisions two and three and inserting in lieu thereof a new subdivision two, to read as follows:

"(2) Pass a pre-opening permit inspection conducted by the local health department at the microprocessor's kitchen. The local health department may conduct at least one annual operational inspection during the processing season at the microprocessor's kitchen or when warranted. The local health department has the right to suspend operations or recall products for disease outbreaks, or violations of rules or regulations. Any inspection by a local health department shall be in compliance with rules promulgated by the West Virginia Department of Health and Human Resources pursuant to section four of this article" followed by a semicolon and, renumbering the remaining subdivisions.

On page three, section five, line fifty-six, by striking out the word "interstate" and inserting in lieu thereof the words "in interstate commerce".

On page three, section five, line fifty-nine, by striking out the word "five" and inserting in lieu thereof the word "three".

The Health and Human Resources amendment, as amended, was then adopted.

The bill was ordered to third reading.

At 4:15 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:30 p.m.

\*\*\*\*\*

### **Evening Session**

\*\*\*\*\*

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

### **Reordering of the Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 412, on Second Reading, House Calendar, to the Special Calendar.

### **Second Reading**

-continued-

**Com. Sub. for S. B. 412**, Relating to WV Jobs Act reporting requirements; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk, on page one, after the enacting clause, by striking out everything after the enacting section and inserting in lieu thereof the following:

“That §21-1C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

## **CHAPTER 21. LABOR.**

### **ARTICLE 1C. WEST VIRGINIA JOBS ACT.**

#### **§21-1C-5. Applicability and scope of article; reporting requirements.**

(a) This article applies to expenditures for construction projects by any public authority for public improvements as defined by this article.

(b) For public improvement projects let pursuant to this article, the public authority shall file, or require an employer as defined in section two of this article to file, with the Division of Labor copies of the waiver certificates and certified payrolls pursuant to article five-a of this chapter or other comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation.

(c) The Division of Labor shall compile the information required by this section and submit it annually to the Joint Committee on Government and Finance by October 15. The joint committee may forward these reports to the Legislative Auditor to review and make comments regarding the usefulness of the information collected and to suggest changes to the division’s method of reporting to ensure the information collected will prove useful in evaluating the effectiveness of the provisions of this article.

(d) Each public authority ~~has the duty to~~ shall implement the reporting requirements of this article. Every public improvement contract or subcontract let by a public authority shall contain provisions conforming to the requirements of this article.

(e) The Division of Labor ~~is authorized to~~ may establish procedures for the efficient collection of data, collection of civil penalties prescribed in section six of this article and transmittal of data to the Joint Committee on Government and Finance.

(f) The Division of Labor, or any public authority to any other entity or person may not disclose any document filed or submitted pursuant to this section that includes records of actual wages paid to employees that contains any information contained in such documents pertaining to the wages of any individual to any other entity or person except to another governmental agency to the extent necessary for that agency to carry out its statutory functions. Any such document shall be deemed confidential and proprietary and shall not be considered a public record for the purposes of article one, chapter twenty-nine-b of this code unless such wage information is redacted before being disclosed.

(g) Nothing in this section shall prohibit the release of documents or information regarding actual wages paid pursuant to a court order from a court of competent jurisdiction, including but not limited to municipal court, family court, circuit court, and the West Virginia Supreme Court of Appeals."

Delegate G. Foster moved to amend the amendment on page one, after the enacting clause by striking out the enacting section and by striking out the remainder of the bill and inserting in lieu thereof the following:

"That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5-22-4; and that §21-1C-5 of said code be amended and reenacted, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.**

**§5-22-4. Prohibition on requiring submission of wage records; exception.**

(a) A governmental entity that requires a private company, which has contracted with or is seeking to contract with a governmental entity for a construction project, to submit any document that includes records of actual wages paid to employees shall not disclose such document or information contained therein to any other entity or person except to another governmental agency to the extent necessary for that agency to carry out its statutory functions. Any such document shall be deemed confidential and proprietary and shall not be considered a public record for the purposes of article one, chapter twenty-nine-b of this code.

(b) For the purposes of this section, "governmental entity" means the state and its subdivisions or any other entity or person acting on behalf of the state and its subdivisions.

(c) Nothing in this section shall prohibit the release of documents or information regarding actual wages paid pursuant to a court order from a court of competent jurisdiction, including but not limited to municipal court, family court, circuit court, and the West Virginia Supreme Court of Appeals."

**CHAPTER 21. LABOR.****ARTICLE 1C. WEST VIRGINIA JOBS ACT.****§21-1C-5. Applicability and scope of article; reporting requirements.**

(a) This article applies to expenditures for construction projects by any public authority for public improvements as defined by this article.

(b) For public improvement projects let pursuant to this article, the public authority shall file, or require an employer as defined in section two of this article to file, with the Division of Labor copies of the waiver certificates and certified payrolls pursuant to article five-a of this chapter or other comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation.

(c) The Division of Labor shall compile the information required by this section and submit it annually to the Joint Committee on Government and Finance by October 15. The joint committee may forward these reports to the Legislative Auditor to review and make comments regarding the usefulness of the information collected and to suggest changes to the division's method of reporting to ensure the information collected will prove useful in evaluating the effectiveness of the provisions of this article.

(d) Each public authority ~~has the duty to~~ shall implement the reporting requirements of this article. Every public improvement contract or subcontract let by a public authority shall contain provisions conforming to the requirements of this article.

(e) The Division of Labor ~~is authorized to~~ may establish procedures for the efficient collection of data, collection of civil penalties prescribed in section six of this article and transmittal of data to the Joint Committee on Government and Finance.

(f) Any document filed or submitted pursuant to this section that includes records of actual wages paid to employees shall not be disclosed by the Division of Labor or a public authority to any other entity or person except to another governmental agency to the extent necessary for that agency to carry out its statutory functions. Any such document and any information contained therein shall be deemed confidential and proprietary and shall not be considered a public record for the purposes of article one, chapter twenty-nine-b of this code.

(g) Nothing in this section shall prohibit the release of documents or information regarding actual wages paid pursuant to a court order from a court of competent jurisdiction, including but not limited to municipal court, family court, circuit court, and the West Virginia Supreme Court of Appeals."

Delegate Walters was addressing the House when Delegate Hicks arose to a point of order, regarding the content of the remarks of the Delegate.

The Speaker reminded the Gentleman to confine his remarks to the matter before the House.

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

The yeas and nays having been ordered, they were taken **(Roll No. 453)**, and there were—yeas 31, nays 67, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Arvon, Atkinson, Blair, Butler, Cooper, Cowles, Deem, Ellington, Espinosa, Fast, G. Foster, N. Foster, Harshbarger, Higginbotham, Hollen, Householder, Howell, Kessinger, Maynard, C. Miller, Moore, O'Neal, Overington, C. Romine, Sobonya, Statler, Summers, Walters, Wilson and Zatezalo.

Absent and Not Voting: Folk and Lane.

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

Delegates Thompson and Hicks moved to amend the amendment on page one, by striking out the enacting section and inserting in lieu the following:

“That §21-1C-2 and §21-1C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows” and a colon.

And,

On line one by inserting the following:

**“§21-1C-2. Definitions.**

As used in this article:

(1) The term ‘construction project’ means any construction, reconstruction, improvement, enlargement, painting, decorating or repair of any public improvement let to contract in an amount equal to or greater than \$500,000. The term ‘construction project’ does not include temporary or emergency repairs;

(2) (A) The term ‘employee’ means any person hired or permitted to perform hourly work for wages by a person, firm or corporation in the construction industry;

(B) The term ‘employee’ does not include:

(i) Bona fide employees of a public authority or individuals engaged in making temporary or emergency repairs;

(ii) Bona fide independent contractors; or

(iii) Salaried supervisory personnel necessary to assure efficient execution of the employee’s work;

(3) The term ‘employer’ means any person, firm or corporation employing one or more employees on any public improvement and includes all contractors and subcontractors;

(4) The term ‘local labor market’ means every county in West Virginia and any county outside of West Virginia ~~if any portion of that county is within fifty miles of~~ which shares the border of with West Virginia;

(5) The term ‘public authority’ means any officer, board, commission or agency of the State of West Virginia and its subdivisions, including counties and municipalities. Further, the economic grant committee, economic development authority, infrastructure and jobs development council and School

Building Authority shall be required to comply with the provisions of this article for loans, grants or bonds provided for public improvement construction projects;

(6) The term 'public improvement' includes the construction of all buildings, roads, highways, bridges, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, airports and all other structures that may be let to contract by a public authority, excluding improvements funded, in whole or in part, by federal funds."

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

The yeas and nays having been ordered, they were taken (**Roll No. 454**), and there were—yeas 47, nays 51, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hamilton, Hanshaw, Hartman, Hicks, Hornbuckle, Howell, laquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, Miley, R. Miller, Moore, Moye, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, C. Romine, Rowe, Shott, Sponaule, Thompson, Ward and Williams.

Absent and Not Voting: Folk and Lane.

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

The amendment recommended by the Committee on Government Organization was then adopted.

### **Messages from the Senate**

A message from the Senate, by

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

**Com. Sub. for H. B. 2195**, Relating to requiring comprehensive drug awareness and prevention program in all public schools.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2329**, Prohibiting the production, manufacture or possession of fentanyl.

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

"That §60A-1-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §60A-2-204 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §60A-4-414, all to read as follows:

### **ARTICLE 1. DEFINITIONS.**

#### **§60A-1-101. Definitions.**



As used in this act:

(a) 'Administer' means the direct application of a controlled substance whether by injection, inhalation, ingestion or any other means to the body of a patient or research subject by:

(1) A practitioner (or, in his or her presence, by his or her authorized agent); or

(2) The patient or research subject at the direction and in the presence of the practitioner.

(b) 'Agent' means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c) 'Analogue' means a substance that, in relation to a controlled substance, has a substantially similar chemical structure.

(d) 'Bureau' means the 'Bureau of Narcotics and Dangerous Drugs, United States Department of Justice' or its successor agency.

(e) 'Controlled substance' means a drug, substance or immediate precursor in Schedules I through V of article two of this chapter.

(f) 'Counterfeit substance' means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) 'Imitation controlled substance' means: (1) A controlled substance which is falsely represented to be a different controlled substance; (2) a drug or substance which is not a controlled substance but which is falsely represented to be a controlled substance; or (3) a controlled substance or other drug or substance or a combination thereof which is shaped, sized, colored, marked, imprinted, numbered, labeled, packaged, distributed or priced so as to cause a reasonable person to believe that it is a controlled substance.

(h) 'Deliver' or 'delivery' means the actual, constructive or attempted transfer from one person to another of: (1) A controlled substance, whether or not there is an agency relationship; (2) a counterfeit substance; or (3) an imitation controlled substance.

(i) 'Dispense' means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(j) 'Dispenser' means a practitioner who dispenses.

(k) 'Distribute' means to deliver, other than by administering or dispensing, a controlled substance, a counterfeit substance or an imitation controlled substance.

(l) 'Distributor' means a person who distributes.

(m) 'Drug' means: (1) Substances recognized as drugs in the official 'United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary', or any supplement to any of them; (2) substances intended for use in the diagnosis, cure,

mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in subdivision (1), (2) or (3) of this subdivision. It does not include devices or their components, parts or accessories.

(n) 'Fentanyl analog or derivative' means any substance which has a chemical structure which is substantially similar to the chemical structure of fentanyl, including any of its salts, isomers, or salts of isomers, including any chemical compound or mixture. For purposes of this chapter, the term 'fentanyl derivative or analog' includes any fentanyl analog that is not otherwise scheduled in this chapter.

~~(n)~~ (o) 'Immediate derivative' means a substance which is the principal compound or any analogue of the parent compound manufactured from a known controlled substance primarily for use and which has equal or similar pharmacologic activity as the parent compound which is necessary to prevent, curtail or limit manufacture.

~~(o)~~ (p) 'Immediate precursor' means a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

~~(p)~~ (q) 'Manufacture' means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or

(2) By a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

~~(q)~~ (r) 'Marijuana' means all parts of the plant 'Cannabis sativa L.', whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, immediate derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, immediate derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

~~(r)~~ (s) 'Narcotic drug' means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, immediate derivative or preparation of opium or opiate.

(2) Any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) of this subdivision, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, immediate derivative or preparation of coca leaves and any salt, compound, isomer, immediate derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~(s)~~ (t) 'Opiate' means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under section two hundred one, article two of this chapter, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does not include its racemic and levorotatory forms.

~~(t)~~ (u) 'Opium poppy' means the plant of the species 'Papaver somniferum L.', except its seeds.

~~(u)~~ (v) 'Person' means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~(v)~~ (w) 'Placebo' means an inert medicament or preparation administered or dispensed for its psychological effect, to satisfy a patient or research subject or to act as a control in experimental series.

~~(w)~~ (x) 'Poppy straw' means all parts, except the seeds, of the opium poppy after mowing.

~~(x)~~ (y) 'Practitioner' means:

(1) A physician, dentist, veterinarian, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

~~(y)~~ (z) 'Production' includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

~~(z)~~ (aa) 'State', when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof and any area subject to the legal authority of the United States of America.

~~(aa)~~ (bb) 'Ultimate user' means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

## **ARTICLE 2. STANDARDS AND SCHEDULES.**

### **§60A-2-204. Schedule I.**

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of subdivision ~~(34)~~ (35) of this subsection only, the term isomer includes the optical and geometric isomers):

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl) -4-piperidiny]—phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levoalphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(— propanilido) piperidine);
- (8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl) ethyl- 4-piperidiny]—phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl) -4- piperidiny]-N-phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2- hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxeridine;

(29) Fentanyl analog or derivative, as that term is defined in article one of this chapter: *Provided*, That fentanyl remains a Schedule II substance, as set forth in section two hundred six of this article;

~~(29)~~ (30) Furethidine;

~~(30)~~ (31) Hydroxypethidine;

~~(31)~~ (32) Ketobemidone;

~~(32)~~ (33) Levomoramide;

~~(33)~~ (34) Levophenacymorphan;

~~(34)~~ (35) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4- piperidyl]-N-phenylpropanamide);

~~(35)~~ (36) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl) ethyl-4- piperidiny]—phenylpropanamide);

~~(36)~~ (37) Morpheridine;

~~(37)~~ (38) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

~~(38)~~ (39) Noracymethadol;

~~(39)~~ (40) Norlevorphanol;

~~(40)~~ (41) Normethadone;

~~(41)~~ (42) Norpipanone;

~~(42)~~ (43) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide);

~~(43)~~ (44) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

~~(44)~~ (45) Phenadoxone;

~~(45)~~ (46) Phenampromide;

~~(46)~~ (47) Phenomorphan;

- ~~(47)~~ (48) Phenoperidine;
- ~~(48)~~ (49) Piritramide;
- ~~(49)~~ (50) Proheptazine;
- ~~(50)~~ (51) Properidine;
- ~~(51)~~ (52) Propiram;
- ~~(52)~~ (53) Racemoramide;
- ~~(53)~~ (54) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4- piperidiny]-propanamide);
- ~~(54)~~ (55) Tilidine;
- ~~(55)~~ (56) Trimeperidine.

(c) *Opium derivatives*. — Unless specifically excepted or unless listed in another schedule, any of the following opium immediate derivatives, its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except HCl Salt);
- (11) Heroin;
- (12) Hydromorphenol;
- (13) Methyl-desorphine;
- (14) Methyl-dihydromorphine;
- (15) Morphine methylbromide;

- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) *Hallucinogenic substances.* — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term 'isomer' includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine; some trade or other names: etryptamine; Monase; alpha-ethy-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET;

(2) 4-bromo-2, 5-dimethoxy-amphetamine; some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo- 2,5-DMA;

(3) 4-Bromo-2,5-dimethoxyphenethylamine; some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha- desmethyl DOB; 2C-B, Nexus;

(4)(A) N-(2-Methoxybenzyl)-4-bromo-2, 5-dimethoxyphenethylamine. The substance has the acronym 25B-NBOMe.

(B) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25C-NBOMe).

(C) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine (25I-NBOMe)

(5) 2,5-dimethoxyamphetamine; some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA;

(6) 2,5-dimethoxy-4-ethylamphet-amine; some trade or other names: DOET;

(7) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

(8) 4-methoxyamphetamine; some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA;

(9) 5-methoxy-3, 4-methylenedioxy-amphetamine;

(10) 4-methyl-2,5-dimethoxy-amphetamine; some trade and other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; 'DOM'; and 'STP';

(11) 3,4-methylenedioxy amphetamine;

(12) 3,4-methylenedioxymethamphetamine (MDMA);

(13) 3,4-methylenedioxy-N-ethylamphetamine (also known as – ethyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA);

(14) N-hydroxy-3,4-methylenedioxyamphetamine (also known as – hydroxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and – hydroxy MDA);

(15) 3,4,5-trimethoxy amphetamine;

(15) (16) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);

(17) Alpha-methyltryptamine (other name: AMT);

(18) Bufotenine; some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole;3-(2-dimethylaminoethyl) -5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N- dimethyltryptamine; mappine;

(19) Diethyltryptamine; some trade and other names: N, N-Diethyltryptamine; DET;

(20) Dimethyltryptamine; some trade or other names: DMT;

(21) 5-Methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT);

(22) Ibogaine; some trade and other names: 7-Ethyl-6, 6 Beta, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2': 1, 2] azepino [5,4-b] indole; Tabernanthe iboga;

(23) Lysergic acid diethylamide;

(24) Marijuana;

(25) Mescaline;

(26) Parahexyl-7374; some trade or other names: 3-Hexyl -1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b,d] pyran; Synhexyl;

(27) Peyote; meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, immediate derivative, mixture or preparation of such plant, its seeds or extracts;

(28) N-ethyl-3-piperidyl benzilate;

(29) N-methyl-3-piperidyl benzilate;

(30) Psilocybin;

(31) Psilocyn;



(32) Tetrahydrocannabinols; synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, immediate derivatives and their isomers with similar chemical structure and pharmacological activity such as the following:

delta-1 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 Cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3,4 Cis or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered).

(33) Ethylamine analog of phencyclidine; some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE;

(34) Pyrrolidine analog of phencyclidine; some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(35) Thiophene analog of phencyclidine; some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine; TCPy, TCP;

(36) 1[1-(2-thienyl)cyclohexyl]pyrrolidine; some other names: TCPy.

(37) 4-methylmethcathinone (Mephedrone);

(38) 3,4-methylenedioxypropylvalerone (MDPV);

(39) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E);

(40) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D)

(41) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C)

(42) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I)

(43) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2)

(44) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4)

(45) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H)

(46) 2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine (2C-N)

(47) 2-(2,5-Dimethoxy-

4-(n)-propylphenyl) ethanamine (2C-P)

(48) 3,4-Methylenedioxy-N-methylcathinone (Methylone)

(49) (2,5-dimethoxy-4-(n)-propyltgiophenethylamine (2C-T-7, itsoptical isomers, salts and salts of isomers

(50) 5-methoxy-N, N-dimethyltryptamine some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT(5-MeO-DMT)

(51) Alpha-methyltryptamine (other name: AMT)

(52) 5-methoxy-N ,N-diisopropyltryptamine (other name: 5-MeO-DIPT)

(53) Synthetic Cannabinoids as follows:

(A) 2-[(1R,3S)-3-hydroxycyclohexyl]-5- (2-methyloctan-2-yl) phenol {also known as CP 47,497 and homologues};

(B) rel-2-[(1S,3R)-3-hydroxycyclohexyl] -5-(2-methylnonan-2-yl) phenol {also known as CP 47,497-C8 homolog};

(C) [(6a*R*)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[*c*]chromen-1-ol] {also known as HU-210};

(D) (dexanabinol);

(6a*S*,10a*S*)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[*c*]chromen-1-ol {also known as HU-211};

(E) 1-Pentyl-3-(1-naphthoyl) indole {also known as JWH-018};

(F) 1-Butyl-3-(1-naphthoyl) indole {also known as JWH-073};

(G) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-015};

(H) (1-hexyl-1H-indol-3-yl)-1-naphthalenyl-methanone {also known as JWH-019};

(I) [1-[2-(4-morpholinyl) ethyl] -1H-indol-3-yl]-1-naphthalenyl-methanone {also known as JWH-200};

(J) 1-(1-pentyl-1H-indol-3-yl)-2-(3-hydroxyphenyl)-ethanone {also known as JWH-250};

(K) 2-((1*S*,2*S*,5*S*)-5-hydroxy-2- (3-hydroxypropyl)cyclohexyl) -5-(2-methyloctan-2-yl)phenol {also known as CP 55,940};

(L) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-122};

(M) (4-methyl-1-naphthalenyl) (1-pentyl-1H-indol-3-yl) -methanone {also known as JWH-398};

(N) (4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone {also known as RCS-4};

(O) 1-(1-(2-cyclohexylethyl) -1H-indol-3-yl) -2-(2-methoxyphenyl) ethanone {also known as RCS-8};

(P) 1-pentyl-3-[1-(4-methoxynaphthoyl)] indole (JWH-081);

(Q) 1-(5-fluoropentyl)-3-(1-naphthoyl) indole (AM2201); and

(R) 1-(5-fluoropentyl)-3-(2-iodobenzoyl) indole (AM694).

(54) Synthetic cannabinoids or any material, compound, mixture or preparation which contains any quantity of the following substances, including their analogues, congeners, homologues, isomers, salts and salts of analogues, congeners, homologues and isomers, as follows:

(A) CP 47,497 AND homologues, 2-[(1R,3S)-3-Hydroxycyclohexyl]-5-(2-methyloctan-2-YL) phenol);

(B) HU-210, [(6AR,10AR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-Methyloctan-2-YL)-6A,7,10, 10A-tetrahydrobenzo[C] chromen-1-OL];

(C) HU-211, (dexanabinol, (6AS,10AS)-9-(hydroxymethyl)-6,6-Dimethyl-3-(2-methyloctan-2-YL)-6A,7,10,10 atetrahydrobenzo [C]chromen-1-OL);

(D) JWH-018, 1-pentyl-3-(1-naphthoyl) indole;

(E) JWH-019, 1-hexyl-3-(1-naphthoyl) indole;

(F) JWH-073, 1-butyl-3-(1-naphthoyl) indole;

(G) JWH-200, (1-(2-morpholin-4-ylethyl) indol-3-yl)- Naphthalen-1-ylmethanone;

(H) JWH-250, 1-pentyl-3-(2-methoxyphenylacetyl) indole.]

(55) Synthetic cannabinoids including any material, compound, mixture or preparation that is not listed as a controlled substance in Schedule I through V, is not a federal Food and Drug Administration approved drug or used within legitimate and approved medical research and which contains any quantity of the following substances, their salts, isomers, whether optical positional or geometric, analogues, homologues and salts of isomers, analogues and homologues, unless specifically exempted, whenever the existence of these salts, isomers, analogues, homologues and salts of isomers, analogues and homologues if possible within the specific chemical designation:

(A) Tetrahydrocannabinols meaning tetrahydrocannabinols which are naturally contained in a plant of the genus cannabis as well as synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis or synthetic substances, derivatives and their isomers with analogous chemical structure and or pharmacological activity such as the following:

(i) DELTA-1 CIS OR trans tetrahydrocannabinol and their optical isomers.

(ii) DELTA-6 CIS OR trans tetrahydrocannabinol and their optical isomers.

(iii) DELTA-3,4 CIS OR their trans tetrahydrocannabinol and their optical isomers.

(B) Naphthoylindoles or any compound containing a 3-(1-Naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include the following:

- (i) JWH 015;
- (ii) JWH 018;
- (iii) JWH 019;
- (iv) JWH 073;
- (v) JWH 081;
- (vi) JWH 122;
- (vii) JWH 200;
- (viii) JWH 210;
- (ix) JWH 398;
- (x) AM 2201;
- (xi) WIN 55,212.

(56) Naphthylmethylindoles or any compound containing a 1-hindol-3-yl-(1-naphthyl) methane structure with a substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 175 and JWH 184.

(57) Naphthoylpyrroles or any compound containing a 3-(1-Naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 147 and JWH 307.

(58) Naphthylmethylindenes or any compound containing a Naphthylideneindene structure with substitution at the 3-Position of the indene ring whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. This shall include, but not be limited to, JWH 176.

(59) Phenylacetylindoles or any compound containing a 3-Phenylacetylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

- (A) RCS-8, SR-18 OR BTM-8;
- (B) JWH 250;
- (C) JWH 203;

(D) JWH 251;

(E) JWH 302.

(60) Cyclohexylphenols or any compound containing a 2-(3- hydroxycyclohexyl) phenol structure with a substitution at the 5-Position of the phenolic ring whether or not substituted in the cyclohexyl ring to any extent. This shall include the following:

(A) CP 47,497 and its homologues and analogs;

(B) Cannabicyclohexanol;

(C) CP 55,940.

(61) Benzoylindoles or any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. This shall include the following:

(A) AM 694;

(B) Pravadoline WIN 48,098;

(C) RCS 4;

(D) AM 679.

(62) [2,3-dihydro-5 methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-DE]-1, 4-benzoxazin-6-YL]-1-naphthalenymethanone. This shall include WIN 55,212-2.

(63) Dibenzopyrans or any compound containing a 11-hydroxydelta 8-tetrahydrocannabinol structure with substitution on the 3-pentyl group. This shall include HU-210, HU-211, JWH 051 and JWH 133.

(64) Adamantoylindoles or any compound containing a 3-(-1- Adamantoyl) indole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the adamantoyl ring system to any extent. This shall include AM1248.

(65) Tetramethylcyclopropylindoles or any compound containing A 3-tetramethylcyclopropylindole structure with substitution at the nitrogen atom of the indole ring whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropyl ring to any extent. This shall include UR-144 and XLR-11.

(66) N-(1-Adamantyl)-1-pentyl-1h-indazole-3-carboxamide. This shall include AKB48.

(67) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research. Since nomenclature of these substances is not internationally standardized, any immediate precursor or immediate derivative of these substances shall be covered.

(68) Tryptamines:

- (A) 5- methoxy- N- methyl-N-isopropyltryptamine (5-MeO-MiPT)
- (B) 4-hydroxy-N N-diisopropyltryptamine (4-HO-DiPT)
- (C) 4-hydroxy-N-methyl-N-isopropyltryptamine (4-HO-MiPT)
- (D) 4-hydroxy-N-methyl-N-ethyltryptamine (4-HO-MET)
- (E) 4-acetoxy-N, N-diisopropyltryptamine (4-AcO-DiPT)
- (F) 5-methoxy- $\alpha$ -methyltryptamine (5-MeO-AMT)
- (G) 4-methoxy-N, N-Dimethyltryptamine (4-MeO-DMT)
- (H) 4-hydroxy Diethyltryptamine (4-HO-DET)
- (I) 5- methoxy- N,N- diallyltryptamine (5-MeO-DALT)
- (J) 4-acetoxy-N, N-Dimethyltryptamine (4-AcO DMT)
- (K) 4-hydroxy Diethyltryptamine (4-HO-DET)

(e) *Depressants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone;
- (2) Methaqualone.

(f) *Stimulants*. — Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Aminorex; some other names: aminoxaphen; 2-amino-5- phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(2) Cathinone; some trade or other names: 2-amino-1-phenyl-1- propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(3) Fenethylline;

(4) Methcathinone, its immediate precursors and immediate derivatives, its salts, optical isomers and salts of optical isomers; some other names: (2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1- one; alpha—methylaminopropiophenone; monomethylpropion; 3,4-methylenedioxypropylpyrovalerone and/or mephedrone; 3,4-methylenedioxypropylpyrovalerone (MPVD); ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL- 463 and UR1432;

(5) (+-) cis-4-methylaminorex; ((+)- cis-4,5-dihydro-4-methyl- 5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine; also known as N,N-alpha- trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(8) Alpha-pyrrolidinopentiophenone, also known as alpha-PVP, optical isomers, salts and salts of isomers.

(9) Substituted amphetamines:

(A) 2-Fluoroamphetamine

(B) 3-Fluoroamphetamine

(C) 4-Fluoroamphetamine

(D) 2-chloroamphetamine

(E) 3-chloroamphetamine

(F) 4-chloroamphetamine

(G) 2-Fluoromethamphetamine

(H) 3-Fluoromethamphetamine

(I) 4-Fluoromethamphetamine

(J) 4-chloromethamphetamine

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers.

(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

(3) N-benzylpiperazine, also known as BZP.

(h) The following controlled substances are included in Schedule I:

(1) Synthetic Cathinones or any compound, except bupropion or compounds listed under a different schedule, or compounds used within legitimate and approved medical research, structurally derived from 2- Aminopropan-1-one by substitution at the 1-position with Monocyclic or fused polycyclic ring systems, whether or not the compound is further modified in any of the following ways:

(A) By substitution in the ring system to any extent with Alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl or halide Substituents whether or not further substituted in the ring system by one or more other univalent substituents.

(B) By substitution at the 3-position with an acyclic alkyl substituent.

(C) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups.

(D) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

(2) Any other synthetic chemical compound that is a Cannabinoid receptor type 1 agonist as demonstrated by binding studies and functional assays that is not listed in Schedules II, III, IV and V, not federal Food and Drug Administration approved drug or used within legitimate, approved medical research.

#### ARTICLE 4. OFFENSES AND PENALTIES.

##### **§60A-4-414. Unlawful production, manufacture or possession of fentanyl, its derivatives, or any Schedule I substance that is misrepresented.**

(a) Except as authorized by this chapter, it is unlawful for any person to knowingly or intentionally manufacture, possess, distribute, dispense, or transport any quantity of fentanyl, or any fentanyl analog or derivative, with intent to manufacture, distribute, dispense, deliver, administer or use the fentanyl, or any fentanyl analog or derivative. Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than two years nor more than twenty years or fined not more than \$10,000, or both imprisoned and fined.

(b) It is unlawful for any person to knowingly and intentionally sell or distribute any Schedule I controlled substance while misrepresenting the identity of the Schedule I controlled substance being sold or distributed as a legitimate pharmaceutical product. Any person who violates this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate sentence of not less than one year nor more than five years or fined not more than \$2,500, or both imprisoned and fined.

(c) The offenses created in this section are separate offenses from others in this chapter.”

And,

By amending the title to read as follows:

**Com. Sub. for H. B. 2329** – “A Bill to amend and reenact §60A-1-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §60A-2-204 of said code; and to amend said code by adding thereto a new section, designated §60A-4-414, all relating to prohibiting the unlawful production, manufacture or possession of fentanyl and fentanyl analogs and derivatives; defining a fentanyl analog or derivative; classifying a fentanyl analog or derivative as a Schedule I drug; creating a felony offense and imposing criminal penalties for the unlawful production, manufacture or possession of fentanyl and fentanyl analogs or derivatives; and creating a separate felony offense and imposing penalties for misrepresenting the identity of a Schedule I controlled substance as a legitimate pharmaceutical product.”

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



A message from the Senate, by

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

**H. B. 2348**, Eliminating any requirement that class hours of students be consecutive.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2364**, Prohibiting electioneering within or near early voting locations during early voting periods.

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

**“ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

**§3-1-37. Restrictions on presence and conduct at polls.**

(a) Except as otherwise provided in this section, no person, other than the election officers and voters going to the election room to vote and returning therefrom, may be or remain within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place while the polls are open. This subsection does not apply to persons who reside or conduct business within such distance of the entrance to the building housing the polling place, while in the discharge of their legitimate business, or to persons whose business requires them to pass and repass within ~~three~~ one hundred feet of such entrance.

(b) A person who is delivering a voter to a polling place by motor vehicle may drive such vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the location is within ~~three~~ one hundred feet of the outside entrance to the building housing the polling place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from within ~~three~~ one hundred feet of the entrance until such time as the voter is to be transported from the polling place or another voter delivered: *Provided*, That vehicles delivering voters who require assistance by reason of blindness, disability or advanced age may remain within ~~three~~ one hundred feet of the entrance until such time as the voter is to be transported from the polling place.

(c) The election commissions shall limit the number of voters in the election room so as to preserve order. No person may approach nearer than five feet to any booth or compartment while the election is being held, except the voters to prepare their ballots, or the poll clerks when called on by a voter to assist in the preparation of his or her ballot, and no person, other than election officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted to be within five feet of any ballot box, except by authority of the board of election commissioners, and then only for the purpose of keeping order and enforcing the law.

(d) Not more than one person may be permitted to occupy any booth or compartment at one time. No person may remain in or occupy a booth or compartment longer than may be necessary to prepare his or her ballot, and in no event longer than five minutes, except that any person who claims a disability pursuant to section thirty-four of this article shall have additional time up to ten additional minutes to prepare his or her ballot. No voter, or person offering to vote, may hold any conversation

or communication with any person other than the poll clerks or commissioners of election, while in the election room.

(e) The provisions of this section do not apply to persons rendering assistance to blind voters as provided in section thirty-four of this article or to any child fourteen years of age or younger who accompanies a parent, grandparent or legal guardian who is voting. Any dispute concerning the age of a child accompanying a parent, grandparent or legal guardian who is voting shall be determined by the election commissioners.

## ARTICLE 9. OFFENSES AND PENALTIES.

### §3-9-9. Electioneering defined; ~~Other unlawful acts at polling places~~; exceptions; penalties.

(a) As used in this section, "electioneering" means the displaying of signs or other campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question. "Electioneering" does not include exit polling, so long as persons conducting exit polling are not otherwise engaging in electioneering activities described above, or bumper stickers or signs affixed to a person's vehicle which is parked within or passing through a distance of one hundred feet of the entrance to a polling place while such person is voting or transporting any voter to the polls.

(b) No officer of election may disclose to any person the name of any candidate for whom a voter has voted. No officer of election may do any electioneering on election day.

(c) No person may do any electioneering on election day within any polling place, or within three one hundred feet of the outside entrance to the building housing the polling place. No person may do any electioneering in the polling place or within one hundred feet of the outside entrance of any polling place where early voting is conducted during the period in which early voting is offered during the hours while such early voting is actually taking place. Nothing in this subsection shall prohibit a citizen from doing any electioneering upon his or her own private property, regardless of distance from the polling place, so long as that electioneering conforms to other existing laws and ordinances.

(d) No person may apply for or receive any ballot in any polling place, other than that in which he the person is entitled to vote, nor may any person examine a ballot which any voter has prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement, directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of election, may receive from any voter a ballot prepared by him or her for voting. No voter may receive a ballot from any person other than one of the poll clerks; nor may any person other than a poll clerk deliver a ballot to a commissioner of election to be voted by such commissioner. No voter may deliver any ballot to a commissioner of election to be voted, except the one he or she receives from the poll clerk. No voter may place any mark upon his or her ballot, or suffer or permit any other person to do so, by which it may be afterward identified as the ballot voted by him or her.

(e) Whoever violates any provision of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for not more than one year, or both fined and confined."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 455**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Eldridge and Rowe.

Absent and Not Voting: Folk and Lane.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2364) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, to take effect from passage, as follows:

**H. B. 2446**, Relating to the requirement that all executive branch agencies maintain a website that contains specific information.

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

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

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 456**), and there were—yeas 74, nays 24, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Boggs, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fluharty, Hornbuckle, Iaquinta, Isner, Longstreth, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Robinson, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Folk and Lane.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2446) passed.

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

On this question, the yeas and nays were taken (**Roll No. 457**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Baldwin, Bates, Canestraro, E. Evans, Fluharty, Hornbuckle, Iaquinta, Longstreth, Lynch, Marcum, Pushkin, Rowe, Sponaugle and Williams.

Absent and Not Voting: Folk and Lane.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2446) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with title amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2494**, Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request.

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

**Com. Sub. for H. B. 2494** – “A Bill to amend and reenact §18-2E-4 of the Code of West Virginia, 1931, as amended, relating school, school district and statewide school report cards; modifying state board duties pertaining to the report cards; modifying information to be included in the school and school district report cards; removing requirement for school report cards to mailed directly to the parents; and requiring school and school district report cards be made easily accessible on, or through a report card icon or link on, the county board website and provided in paper form upon request of the parent, guardian or custodian.”

The bill, as amended by the Senate, was then put upon its passage.

On this question the yeas and nays were taken (**Roll No. 458**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Upson.

Absent and Not Voting: Folk and Lane.

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

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2503**, Relating to the rulemaking authority for Board of Osteopathic Medicine.

A message from the Senate, by

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

**Com. Sub. for H. B. 2603**, Relating to municipal policemen's or firemen's pension and relief funds that are funded at one hundred and twenty-five percent or more.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2619**, Risk Management and Own Risk and Solvency Assessment Act.

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

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

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

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

### **§33-40B-1. Purpose and Scope.**

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

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

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

### **§33-40B-2. Definitions.**

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

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

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

(d) ‘NAIC’ means the National Association of Insurance Commissioners.

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

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

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

### **§33-40B-3. Risk Management Framework.**

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

### **§33-40B-4. ORSA Requirement.**

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

### **§33-40B-5. ORSA Summary Report.**

(a) Upon the commissioner's request, and no more than once each year, an insurer shall submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA Guidance Manual, applicable to the insurer and/or, the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the report(s) required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

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

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

### **§33-40B-6. Exemption.**

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

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

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

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

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

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

(e) Notwithstanding the exemptions stated in this section:

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

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

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

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

(a) The ORSA summary report shall be prepared consistent with the ORSA Guidance Manual, subject to the requirements of subsection (b) of this section. Documentation and supporting

information shall be maintained and made available upon examination or upon request of the commissioner.

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

**§33-40B-8. Confidentiality.**

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

(b) Neither the commissioner nor any person who received documents, materials or other ORSA-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom the documents, materials or other information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

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

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

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

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

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



the confidentiality and privileged status of the ORSA-related documents, materials or other information and has verified in writing the legal authority to maintain confidentiality;

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

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

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

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

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

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

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

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

#### **§33-40B-9. Sanctions.**

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

#### **§33-40B-10. Severability.**

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

#### **§33-40B-11. Effective Date.**

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

And,

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

**Com. Sub. for H. B. 2619** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-40B-1, §33-40B-2, §33-40B-3, §33-40B-4, §33-40B-5, §33-40B-6, §33-40B-7, §33-40B-8, §33-40B-9, §33-40B-10 and §33-40B-11, all relating to insurer risk management and solvency assessment; setting forth the purpose and scope of the article; defining terms; setting forth the requirement that insurers must maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks; setting forth and providing requirements for the own risk and assessment summary report; providing exemptions to the summary report requirements; providing confidentiality requirements related to the summary report; providing sanctions for failing to submit the summary report; providing for severability; and providing the effective date of this article.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 459**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Lane.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2619) passed.

Delegate Cowles moved that the bill take effect January 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 460**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Lane.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2619) takes effect January 1, 2018.

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

A message from the Senate, by

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

**H. B. 2691**, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber.

A message from the Senate, by

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

**Com. Sub. for H. B. 2709**, Authorizing the City of South Charleston to levy a special district excise tax.

A message from the Senate, by

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

**Com. Sub. for H. B. 2792**, Requiring the Library Commission to survey the libraries of the state.

A message from the Senate, by

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

**Com. Sub. for H. B. 2797**, Codifying statutory immunity for government agencies and officials from actions of third-parties using documents or records.

A message from the Senate, by

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

**H. B. 2833**, Specifying the contents and categories of information for inclusion in annual reports.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2839**, Updating the procedures for legislative review of departments and licensing boards.

A message from the Senate, by

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

**Com. Sub. for H. B. 2941**, Requiring the Commissioner of the Division of Highways to utilize the Attorney General for all legal assistance and services.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2961**, Relating generally to charitable bingo games and charitable raffles.

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

**Com. Sub. for H. B. 2961** – “A Bill to amend and reenact §6-3-1a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto four new sections, designated §5-3-6, §7-15-19, §8-15-28 and §16-4C-24, all relating to authorizing certain first responders to carry handguns; authorizing the Attorney General to authorize investigators employed by the Office of the Attorney General to carry handguns while engaged in their official duties; specifying the training required for them to be eligible to carry a handgun; authorizing sheriffs to authorize reserve deputy sheriffs, and supervising entities to authorize ambulance crew members, firefighters, rescue squad members and

emergency service personnel to carry handguns while engaged in their official duties; specifying the training required for them to be eligible to carry a handgun; and allowing reimbursement for the cost of the training.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 461**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Eldridge, Marcum and Sobonya.

Absent and Not Voting: Folk, G. Foster and Lane.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2961) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 3037**, Removing the Division of Energy as an independent agency.

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

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

#### **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

#### **ARTICLE 2F. DIVISION OFFICE OF ENERGY.**

**§5B-2F-2. Purpose; ~~office of Director for Energy Development; director to be member of Public Energy Authority; division Office of Energy; office to develop energy policy and development plan; contents of energy policy and development plan; and division office to promote energy initiatives.~~**

(a) Effective July 1, 2007 2017, the Division of Energy is ~~created as a state agency under the Department of Commerce.~~ hereby continued, but shall be designated and known as the Office of Energy, and shall be organized within the Development Office of the Department of Commerce. All references throughout this code to the Division of Energy shall be construed to refer to the Office of Energy. The division office may receive federal funds. ~~The division shall be administered by a director, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue to serve until his or her successor is appointed and qualified as provided. The director shall be selected with special preference and consideration given to his or her training, experience, capacity and interest in energy policy and development activities.~~

(b) ~~Creation of the division~~ The office is intended to provide leadership for developing energy policies emphasizing the increased efficiency of energy use, the increased development and production of new and existing domestic energy sources, the increased awareness of energy use on the environment and the economy, dependable, efficient and economical statewide energy systems

capable of supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased, reduce the ratio energy consumption to economic activity and maintain low-cost energy. The energy policies and development plans shall also provide direction for the private sector.

~~(c) The director shall administer the daily operations of the Public Energy Authority provided under the provisions of chapter five-d of this code. The director shall also have authority over the Office of Coalfield Community Development, created by the provisions of article two-a of this chapter, and The office shall have authority over the energy efficiency program existing under the West Virginia Development Office, which are hereby transferred to the division. The director shall effectuate coordination of these entities relative to the purposes provided in this article.~~

(d) The ~~division office~~ shall develop an energy policy and shall report the same back to the Governor and the Joint Committee on Government and Finance before December 1, 2007. The energy policy shall be a five-year plan setting forth the state's energy policies and shall provide a direction for the private sector. Prior to the expiration of the energy policy, the ~~division office~~ shall begin review of the policy and submit a revised energy policy to the Governor and the Joint Committee on Government and Finance six months before the expiration of the policy.

~~(e) The director shall be a member of the Public Energy Authority and as such shall attend and participate in all official meetings and public hearings conducted under the auspices of the authority.~~

~~(f)~~ (e) The ~~division office~~ shall prepare and submit an annual energy development plan to the Governor and the Joint Committee on Government and Finance on or before December 1 of each year. The development plan shall relate to the ~~division's office's~~ implementation of the energy policy and the activities of the ~~division office~~ during the previous year. The development plan shall include any recommended legislation. The Public Energy Authority, the Office of Coalfield Community Development, the energy efficiency program, the Department of Environmental Protection and the Public Service Commission, in addition to their other duties prescribed by this code, shall assist the ~~division and the director office~~ in the development of an energy policy and related development plans. The energy development plan shall set forth the plans for implementing the state's energy policy and shall provide a direction for the private sector. The energy development plan shall recognize the powers of the Public Energy Authority as to development and financing of projects under its jurisdiction and shall make such recommendations as are reasonable and practicable for the exercise of such powers.

~~(g)~~ (f) The ~~division office~~ shall hold public hearings and meetings with notice to receive public input regarding proposed energy policies and development plans. The energy policy and development plans required by subsections (d) and ~~(f)~~ (e) of this section shall address increased efficiency of energy use, traditional and alternative energy, water as a resource and a component of energy production, energy distribution systems, the siting of energy facilities, the increased development and production of new and existing domestic energy sources, increased awareness of energy use on the environment and the economy, energy infrastructure, the development and implementation of renewable, clean, technically innovative and advanced energy projects in this state. Projects may include, without limitation, solar and wind energy, low-impact hydro power, geothermal, biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal mine methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal liquefaction technologies.

~~(h)~~ (g) The ~~division office~~ may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code designed to implement an energy policy and development plan in accordance with the provisions of this chapter.

~~(i)~~ (h) The energy policy and development plans required by subsections (d) and ~~(f)~~ (e) of this section shall identify and report on the energy infrastructure in this state and include without limitation energy infrastructure related to protecting the state's essential data, information systems and critical government services in times of emergency, inoperativeness or disaster. In consultation with the Director of the Division of Homeland Security and Emergency Management, the ~~director of the division office~~ shall encourage the development of energy infrastructure and strategic resources that will ensure the continuity of governmental operations in situations of emergency, inoperativeness or disaster.

~~(j)~~ (i) In preparing or revising the energy policy and development plan, the ~~division office~~ may rely upon internal staff reports or the advice of outside advisors or consultants and may procure such services with the consent of the Secretary of Commerce. The ~~division office~~ may also involve national, state and local government leadership and energy experts.

~~(k)~~ (j) The ~~division office~~ shall prepare an energy use database, including without limitation, end-use applications and infrastructure needs for different classes of energy users including residential, commercial and industrial users, data regarding the interdependencies and sources of electricity, oil, coal, water and gas infrastructure, data regarding energy use of schools and state-owned facilities and collect data on the impact of the energy policy and development plan on the decisions and strategies of energy users of the state.

~~(l)~~ (k) The ~~division office~~ shall promote collaboration between the state's universities and colleges, private industry and nonprofit organizations to encourage energy research and leverage available federal energy research and development resources.

~~(m)~~ (l) The ~~division office~~ shall promote initiatives to enhance the nation's energy security through research and development directed at transforming the state's energy resources into the resources that fuel the nation.

~~(n)~~ The Performance Evaluation and Research Division of the Legislative Auditor's office shall perform an agency review of the Division of Energy in 2010 as part of its review of the Department of Commerce as set forth in article four, chapter ten of this code.

~~(o)~~ (m) The ~~division office~~ shall work with the President of the United States and his or her administration to develop a plan that would allow West Virginia to become the leader in transitioning the United States to a new energy future.

~~(p)~~ (n) The ~~division office~~ is to determine the best way for West Virginia to utilize its resources and any federal funding to develop the technologies that are necessary for such a transition.

~~(q)~~ (o) The ~~division office~~ is to clearly articulate West Virginia's position on an energy solution for the United States that encompasses clean coal, natural gas, transtech energy technologies and renewable energy technologies.

~~(r)~~ (p) The ~~division office~~ shall develop and distribute an informational program and policies that emphasize the importance of West Virginia energy resources and their positive impact on the eastern seaboard and the nation.

~~(s)~~ (g) The ~~division office~~ shall monitor legal challenges to the energy industries in the state and submit a report quarterly to the Joint Committee on Government and Finance. The report shall contain information relating to any litigation that challenges any statute that could affect the production, distribution and utilization of natural resources of the state.

## CHAPTER 5D. PUBLIC ENERGY AUTHORITY ACT.

### ARTICLE 1. PUBLIC ENERGY AUTHORITY OF THE STATE OF WEST VIRGINIA.

#### **§5D-1-4. West Virginia Public Energy Authority continued; West Virginia Public Energy Board continued; organization of authority and board; appointment of board members; term, compensation and expenses; director of authority; appointment.**

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

(b) The authority shall be controlled, managed and operated by a seven-member board known as the West Virginia Public Energy Authority Board, which is continued. The seven members include the ~~Director of the Division of Energy~~ Secretary of the Department of Commerce or designee; the Secretary of the Department of Environmental Protection or designee; the Director of the Economic Development Authority or designee; and four members representing the general public. The public members are appointed by the Governor, by and with the advice and consent of the Senate, for terms of one, two, three and four years, respectively.

(c) On June 30, 2007, the terms of all appointed members shall expire. Not later than July 1, 2007, the Governor shall appoint the public members required in subsection (b) of this section to assume the duties of the office immediately, pending the advice and consent of the Senate.

(d) The successor of each appointed member is appointed for a four-year term. A vacancy is filled by appointment by the Governor in the same manner as the original appointment. A member appointed to fill a vacancy serves for the remainder of the unexpired term. Each board member serves until a successor is appointed.

(e) No more than three of the public members may at any one time belong to the same political party. No more than two public members may be employed by or associated with any industry the authority is empowered to affect. One member shall be a person with significant experience in the advocacy of environmental protection. Board members may be reappointed to serve additional terms.

(f) All members of the board shall be citizens of the state. Before engaging in their duties, each member of the board shall comply with the requirements of article one, chapter six of this code and give bond in the sum of \$25,000 in the manner provided in article two of said chapter. The Governor may remove any board member as provided in section four, article six of said chapter.

(g) The ~~Director of the Division of Energy shall serve~~ Secretary of the Department of Commerce or his or her designee shall serve as chair. The board annually elects one of its members as vice chair and appoints a secretary-treasurer who need not be a member of the board.

(h) Four members of the board constitute a quorum and the affirmative vote of the majority of members present at any meeting is necessary for any action taken by vote of the board. A vacancy

in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.

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

(j) Each public member shall be reimbursed for reasonable expenses incurred in the discharge of official duties. All expenses incurred by the board shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

(k) In addition to such other duties and responsibilities as may be prescribed in this code, the ~~Director of the Division~~ Office of Energy is responsible for managing and administering the daily functions of the authority and for performing all other functions necessary to the effective operation of the authority.”

And,

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

**H. B. 3037** – “A Bill to amend and reenact §5B-2F-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5D-1-4 of said code, all relating to the Division of Energy generally; providing that the division be continued, but shall be designated and known as the Office of Energy, and shall be organized within the Development Office of the Department of Commerce; modifying requirements and duties; modifying composition of the West Virginia Public Energy Authority Board; and designating the Secretary of Commerce or his or her designee as the chair of the West Virginia Public Energy Authority Board.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 462**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge.

Absent and Not Voting: Folk and Lane.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3037) passed.

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

A message from the Senate, by

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

**H. B. 3053**, Relating to motor vehicle lighting.



A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 15**, Requesting Congress to fully support the National Park Service's recommendations to extend the Lewis and Clark National Historic Trail to include additional sites along the Expedition's Eastern Legacy.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

**Com. Sub. for S. B. 4**, Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

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

**Com. Sub. for S. B. 4** – “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new section, designated §30-1-21; to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7-6b; to amend said code by adding thereto a new section, designated §30-7A-6a; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing professionals to donate time to the care of indigent and needy; permitting persons who hold an unrestricted license, certificate, registration or permit granted by another state or jurisdiction to serve as a volunteer without compensation for a charitable function for a period not to exceed ten days; permitting specific professionals who are actively practicing and whose license is in good standing to donate their expertise for the care and treatment of indigent and needy patients under an arrangement with a clinic organized, in whole or in part, for the delivery of health care services without charge to the patient and providing that such services may be performed in either the professional's office or in the clinical setting; and providing for special volunteer license for advance practice registered nurses, licensed practical nurses and chiropractors.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 463**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Folk and Lane.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 4) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

**Com. Sub. for S. B. 386**, Creating WV Medical Cannabis Act.

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

On page five, section one, subsection (a), subdivision (32), by striking out the word “A” and inserting in lieu thereof the words “means a”.

On page twenty-three, section three, subsection (d), subdivision (5), by striking out the word “Bureau” and inserting in lieu thereof the word “departments”.

On page forty-one, section two, by striking out the words “promulgate rules” and inserting in lieu thereof the words “propose rules for legislative promulgation pursuant to the provisions of article three, chapter twenty-nine-a of this code”.

On page fifty-three, section two, by striking out all of subsections (a) and (b) and inserting in lieu thereof the following:

(a) *Financial interests*— A public official, or an immediate family member thereof, shall not intentionally or knowingly hold a financial interest in a medical cannabis organization or in a holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual’s status as a public official.

(b) *Employment*—No public official, or an immediate family member thereof, shall be employed by a medical cannabis organization or by any holding company, affiliate, intermediary or subsidiary thereof, while the individual is a public official and for one year following termination of the individual’s status as a public official.

(c) For purposes of this section, “public official” and “immediate family” shall have the same definitions as those phrases are defined in section three, article one, chapter six-b of this code.

On page fifty-four, section five, by striking out the word “Bureau” and inserting in lieu thereof the word “Department”.

On page fifty-five, section six, subdivision (1), by striking out the words “Bureau of Human Services” and inserting in lieu thereof the words “Department of Health and Human Resources”.

And,

On page fifty-five, section six, subdivision (2), by striking out the words “Bureau of Human Services” and inserting in lieu thereof the words “Department of Health and Human Resources”.

And,

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

**Com. Sub. for S. B. 386** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-8A-1, §16-8A-2, §16-8A-3, §16-8A-4, §16-8A-5, §16-8A-6, §16-8A-7, §16-8A-8, §16-8A-9, §16-8A-10, §16-8A-11, §16-8A-12, §16-8A-13, §16-8A-14,

§16-8A-15, §16-8A-16, and §16-8A-17, all relating to creating the West Virginia Medical Cannabis Act; defining terms; creating the West Virginia Medical Cannabis Commission; setting forth members of the West Virginia Medical Cannabis Commission; setting forth responsibilities for the West Virginia Medical Cannabis Commission; creating a special revenue account known as the West Virginia Medical Cannabis Commission Fund; requiring a portion of any profit to be spend for specific programs; detailing the fund's revenue sources and disbursements; detailing requirements of the commission to implement the provisions of the act; setting requirements for becoming a certifying physician; authorizing the commission to approve physician applications for certain medical conditions; requiring reporting to the Controlled Substances monitoring database; setting out conditions for which cannabis may be used; requiring certain annual reports to the Governor and Legislature; authorizing the commission to license medical cannabis growers and grower agents that meet certain requirements; setting forth certain parameters for licensed growers and grower agents; requiring a certain percentage of licenses be granted to persons in veterans agriculture programs; providing an exception for a qualifying patient to grow a specified amount without a license; authorizing the commission to license dispensaries and register dispensary agents; setting forth certain requirements for dispensaries and dispensary agents setting an initial limit on number of medical cannabis growers and dispensaries; authorizing commission to license the number of growers and dispensaries sufficient to meet demand as of July 1, 2020; authorizing the commission to license medical cannabis processors and register processor agents; authorizing testing laboratories; stating requirements for the commission's registration of independent laboratories; requiring the State Police and commission to enter a memorandum of understanding for criminal records checks and setting forth basic requirements; providing that certain persons licensed, registered and authorized under the act may not be subject to arrest, prosecution or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the medical use of cannabis; creating a new criminal offense of distributing, possessing, manufacturing or using cannabis that has been diverted from an authorized medicinal use; specifically stating conduct related to cannabis that is not protected by the provisions of the act; authorizing state employees to recover certain counsel fees; empowering the Governor to suspend implementation of the act if the Governor determines certain federal action may occur; authorizing promulgation of emergency rules and the proposal of legislative rules for approval by the Legislature; and establishing effective dates."

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 464**), and there were—yeas 74, nays 24, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Arvon, Butler, Cooper, Criss, Deem, A. Evans, Fast, G. Foster, N. Foster, Frich, Gearheart, Hollen, Kessinger, Lewis, Martin, O'Neal, Rohrbach, C. Romine, R. Romine, Rowan, Sobonya, Summers and Sypolt.

Absent and Not Voting: Folk and Lane.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 386) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 493**, Providing increase in compensation for conservation officers.

**Com. Sub. for H. B. 2948**, Establishing timelines for taking final action on certain permits, still being in possession of the Clerk, was taken up for further consideration.

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

**Com. Sub. for H. B. 2948** – “A Bill to amend and reenact §17C-17A-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1A-3a of said code; to amend and reenact §19-2A-4 of said code; to amend and reenact §19-9A-3 of said code; to amend and reenact §19-12D-7 of said code; to amend and reenact §19-15-2 of said code; to amend and reenact §19-34-6 of said code; to amend and reenact §19-35-3 of said code; to amend and reenact §20-3-5 of said code; to amend and reenact §20-7A-5 of said code; to amend and reenact §21-10-7 of said code; to amend and reenact §21-12-7 of said code; to amend and reenact §21-15-10 of said code; to amend and reenact §24A-3-3 of said code; to amend and reenact §29-3-12 of said code; to amend and reenact §29-29-4 of said code; to amend and reenact §47-1A-10 of said code, all relating generally to the issuance of permits; establishing timelines for taking final action on certain permits; modifying procedures for the issuance of permits by the Public Service Commission for activities related to the commercial transportation of coal; modifying procedures for the issuance of permits by the Division of Forestry for activities related to growing or dealing ginseng; modifying procedures for the issuance of permits by the Commissioner of Agriculture to operate a public market; modifying procedures for the issuance of permits by the Commissioner of Agriculture to feed garbage to swine; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to noxious weeds; modifying procedures for the issuance of permits by the Commissioner of Agriculture for activities related to the manufacture or distribution of fertilizer; modifying procedures for the issuance of permits by the Dangerous Wild Animals Board; modifying procedures for the issuance of uniform farmers market vendor permits by local health departments; modifying procedures for the issuance of burning permits by the Director of the Division of Forestry; modifying procedures for the issuance of permits by the Director of the Division of Natural Resources for the excavation or removal of archaeological, paleontological, prehistoric and historic features; modifying procedures for the issuance of permits by the Division of Labor to operate an amusement ride or attraction, a commercial bungee jumping site, or a zipline or canopy tour; modifying procedures for the issuance of permits by the Public Service Commission to operate as a contract carrier by motor vehicle; modifying procedures for the issuance of permits by the State Fire Marshal; modifying procedures for the issuance of permits by a nonprofit youth organization; and modifying permit fees and procedures for the issuance of permits by the Commissioner of the Division of Labor for activities related to the regulation and control of bedding and upholstery businesses.”

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

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

### Committee Reports

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

**Com. Sub. for H. C. R. 31**, Requesting the Joint Committee on Government and Finance study the possibility of reducing the number of county boards of education in the state along with other educational reorganization,

**Com. Sub. for H. C. R. 75**, Increasing the speed limit on highways to 75 miles per hour

**H. C. R. 111**, Study of the Office of Technology and the Information Services and Communications Division,

**H. C. R. 112**, Study of occupational licensing requirements,

**H. C. R. 113**, Study of the Alcohol Beverage Control Administration,

**H. C. R. 114**, Study of the West Virginia Division of Labor,

**H. C. R. 115**, Study of the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses,

**H. C. R. 116**, Study of the Real Estate Division within the Department of Administration,

**H. C. R. 117**, Study of the Fleet Management Office and Travel Management Office,

**H. C. R. 121**, Feasibility study for transfer of the Division of Forestry to the Department of Agriculture,

**H. C. R. 122**, Interim study for increase of funding for West Virginia's Medicaid program,

**H. C. R. 127**, Interim study relating to public schools,

And,

**H. R. 13**, America's promise to our retired coal miners and widows and to pass the Miners Protection Act as soon as possible and provide the full measure of benefits these retirees were promised and have earned,

And reports the same back with the recommendation that they each be adopted.

### **Leaves of Absence**

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

### **Miscellaneous Business**

Delegate Eldridge asked and obtained unanimous consent that the remarks of Delegate Walters on today regarding the anniversary of World War I be printed in the Appendix to the Journal and the remarks of Delegates Love, Phillips, Cooper and Martin regarding S. B. 621 on yesterday, be printed in the Appendix of the Journal.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Lynch regarding his amendment to S. B. 621 be printed in the Appendix to the Journal.

Delegate Butler asked and obtained unanimous consent that the remarks of Delegate Frich, on yesterday, regarding S. B. 347 be printed in the Appendix to the Journal.

Delegate Williams asked and obtained unanimous consent that the debate on the amendment offered to Com. Sub. for S. B. 412 by Delegate G. Foster be printed in the Appendix to the Journal.

Delegate Wilson announced that he was absent on today when the vote was taken on Roll No.420, and that had he been present, he would have voted "Yea" thereon.

Delegate Zatezalo noted to the Clerk that he was absent on today when the vote was taken on S. B. 235 and had he been present, he would have voted "Yea" thereon.

Delegate Rodighiero noted to the Clerk that he was absent on today when the votes were taken on S. B. 240, S. B. 345 and S. B. 441, and had he been present, he would have voted "Yea" thereon.

At 6:55 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, April 7, 2017.

---

**HOUSE OF DELEGATES**  
**STEPHEN J. HARRISON, Clerk**  
**Building 1, Room M-212**  
**1900 Kanawha Blvd., East**  
**Charleston, WV 25305-0470**

**SPECIAL CALENDAR**

**Friday, April 7, 2017**

**59<sup>th</sup> Day**

**9:00 A. M.**

**UNFINISHED BUSINESS**

- H. R. 13 - America's promise to our retired coal miners and widows and to pass the Miners Protection Act as soon as possible and provide the full measure of benefits these retirees were promised and have earned.
- Com. Sub. for H. C. R. 31 - Requesting the Joint Committee on Government and Finance study the possibility of reducing the number of county boards of education in the state along with other educational reorganization
- Com. Sub. for H. C. R. 75 - Increasing the speed limit on highways to 75 miles per hour
- H. C. R. 111 - Study of the Office of Technology and the Information Services and Communications Division
- H. C. R. 112 - Study of occupational licensing requirements
- H. C. R. 113 - Study of the Alcohol Beverage Control Administration
- H. C. R. 114 - Study of the West Virginia Division of Labor
- H. C. R. 115 - Study of the Board of Examiners for Registered Professional Nurses and the Board of Examiners for Licensed Practical Nurses
- H. C. R. 116 - Study of the Real Estate Division within the Department of Administration
- H. C. R. 117 - Study of the Fleet Management Office and Travel Management Office

- H. C. R. 121 - Feasibility study for transfer of the Division of Forestry to the Department of Agriculture
- H. C. R. 122 - Interim study for increase of funding for West Virginia's Medicaid program
- H. C. R. 127 - Interim study relating to public schools

#### **ACTION ON SENATE MESSAGE**

- Com. Sub. for H. B. 2839 - Updating the procedures for legislative review of departments and licensing boards

#### **THIRD READING**

- S. J. R. 6 - Roads to Prosperity Amendment of 2017 (SHOTT) (REGULAR)
- S. B. 25 - Creating farm-to-food bank tax credit (NELSON) (REGULAR)
- S. B. 27 - Relating to microprocessor permit (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 40 - Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans (ESPINOSA) (AUGUST 1, 2017)
- Com. Sub. for S. B. 76 - Creating WV Second Chance for Employment Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING) [RIGHT TO AMEND]
- Com. Sub. for S. B. 116 - Authorizing MAPS promulgate legislative rules (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 174 - Exempting transportation of household goods from PSC jurisdiction (SHOTT) (REGULAR)
- Com. Sub. for S. B. 202 - Relating to pawnbrokers generally (SHOTT) (REGULAR)



- S. B. 219 - Relating to conspiracy to commit crimes under Uniform Controlled Substances Act (SHOTT) (REGULAR)
- Com. Sub. for S. B. 220 - Relating to offenses and penalties under Uniform Controlled Substances Act (SHOTT) (REGULAR) (JUDICIARY COMMITTEE AMENDMENT PENDING) [RIGHT TO AMEND]
- Com. Sub. for S. B. 288 - Increasing penalty for crime of child abuse causing death by parent, guardian, custodian or other person (SHOTT) (REGULAR) [RIGHT TO AMEND]
- S. B. 333 - Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database (SHOTT) (REGULAR)
- Com. Sub. for S. B. 388 - Relating to dangerous weapons (SHOTT) (REGULAR)
- Com. Sub. for S. B. 412 - Relating to WV Jobs Act reporting requirements (HOWELL) (REGULAR)
- S. B. 433 - Permitting counties increase excise tax on privilege of transferring real property (NELSON) (REGULAR)
- Com. Sub. for S. B. 440 - Relating to use of Regional Jail and Correctional Facility Authority funds (NELSON) (REGULAR)
- S. B. 444 - Establishing Court Advanced Technology Subscription Fund (NELSON) (REGULAR)
- Com. Sub. for S. B. 515 - Relating to parole requirements for hearings and release (SHOTT) (REGULAR)
- Com. Sub. for S. B. 533 - Relating to taxes on wine and intoxicating liquors (NELSON) (REGULAR)
- Com. Sub. for S. B. 535 - Reorganizing Division of Tourism (NELSON) (REGULAR)
- S. B. 547 - Modifying fees paid to Secretary of State (NELSON) (REGULAR)

- Com. Sub. for S. B. 622 - Relating generally to tax procedures and administration (NELSON) (REGULAR)
- Com. Sub. for S. B. 630 - Establishing Accessibility and Equity in Public Education Enhancement Act (ESPINOSA) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 637 - Relating to private club operations requirements (SHOTT) (REGULAR) [RIGHT TO AMEND]
- S. B. 686 - Exempting facilities governed by DHHR that provide direct patient care (NELSON) (REGULAR)
- S. B. 687 - Relating generally to coal mining, safety and environmental protection (ANDERSON) (REGULAR)
- S. B. 691 - Relating to off-road vehicles (SHOTT) (REGULAR)
- S. B. 694 - Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration (NELSON) (EFFECTIVE FROM PASSAGE) [RIGHT TO AMEND]

## **HOUSE CALENDAR**

**Friday, April 7, 2017**

**59<sup>th</sup> Day**

**9:00 A. M.**

### **THIRD READING**

- Com. Sub. for S. B. 239 - Limiting use of wages by employers and labor organizations for political activities (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2817 - Providing for the reduction of the unfunded liability in the teachers retirement system over a 30 year period (NELSON) (JULY 1, 2017)
- H. B. 3107 - Relating generally to horse and dog racing lottery (NELSON) (EFFECTIVE FROM PASSAGE) [AMENDMENTS PENDING]
- H. B. 3109 - Relating to establishing a Board of Nursing and Health Services (HOWELL) (REGULAR) [AMENDMENTS PENDING]

### **SECOND READING**

- Com. Sub. for H. B. 2538 - Relating to the licensure of physician assistants (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2871 - Eliminating the mandated employer versus employee cost share of eighty percent employer, twenty percent employee for Public Employee Insurance Agency (NELSON) (REGULAR)

### **FIRST READING**

- H. B. 2500 - Supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 2501 - Supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program (NELSON) (EFFECTIVE FROM PASSAGE)



**WEST VIRGINIA  
HOUSE OF DELEGATES**

---

**FRIDAY, APRIL 7, 2017**

---

**HOUSE CONVENES AT 9:00 A.M.**

---

**COMMITTEE ON RULES  
8:45 A.M. – BEHIND CHAMBER**





HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
Building 1, Room M-212  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470