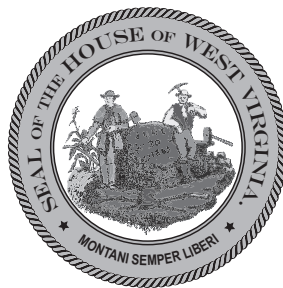


West Virginia Legislature

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April 7, 2017
FIFTY-NINTH DAY

Friday, April 7, 2017

FIFTY-NINTH DAY

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

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

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

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Sponaugle regarding former Speaker of the House Clyde See be printed in the Journal.

DELEGATE SPONAUGLE. Yesterday, one of my very good friends and mentors died with cancer, and he is an icon of Hardy County, West Virginia, Clyde See and former Speaker of this House and he was one of the youngest speakers ever elected to this body, and just an original icon of this state, and I'll just be real brief, Speaker. He had a sense of humor like no other. People would normally ask him, "why did you get out of politics so young?" and he said, "I got ill" and they'd ask him, "what, what do you mean?" and he said, "well, the voters got sick of me". So, he coined the phrase fat possums travel late at night. That's his phrase. He...the reason this body even have offices on the east wing, he kicked the Supreme Court out of it...used to be here at these seats. So, he is a titan of this body and in the State of West Virginia and I'd ask that we have a moment of silence for him.

MR. SPEAKER, MR. ARMSTEAD. If all members and guests would please rise for a moment of silence.

The Clerk proceeded to read the Journal of Thursday, April 6, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 25, Com. Sub. for S. B. 219, Com. Sub. for S. B. 412 and Com. Sub. for S. B. 687, on Third Reading, Special Calendar, to the House Calendar; Com. Sub. for S. B. 76 to the foot of the Calendar; and Com. Sub. for S. B. 239, on Third Reading, House Calendar to the foot of the Special Calendar.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on April 6, 2017, he approved **Com. Sub. for S. B. 127** and **Com. Sub. for S. B. 306**.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances.

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 4. OFFENSES AND PENALTIES.

§60A-4-409. Prohibited acts – Transportation of controlled substances into state; penalties.

(a) Except as otherwise authorized by the provisions of this code, it ~~shall be~~ is unlawful for any person to transport or cause to be transported into this state a controlled substance with the intent to deliver the same or with the intent to manufacture a controlled substance.

(b) Any person who violates this section with respect to:

(1) A controlled substance classified in Schedule I or II, which is a narcotic drug, shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for not less than ~~one year~~ a determinate term of not less than one nor more than fifteen years, or fined not more than \$25,000, or both;

(2) Any other controlled substance classified in Schedule I, II or III shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for a determinate term of not less than one year nor more than five ten years, or fined not more than \$15,000, or both: *Provided*, That for the substance marihuana, as scheduled in subdivision (24) subsection (d), section two hundred four, article two of this chapter, the penalty, upon conviction of a violation of this subsection, shall be that set forth in subdivision (3) of this subsection.

(3) A substance classified in Schedule IV shall be guilty of a felony and, upon conviction, may be imprisoned in the state correctional facility for a determinate term of not less than one year nor more than ~~three~~ five years, or fined not more than \$10,000, or both;

(4) A substance classified in Schedule V shall be guilty of a misdemeanor and, upon conviction, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both: *Provided*, That for offenses relating to any substance classified as Schedule V in article ten of this chapter, the penalties established in said article apply.

(c) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one kilogram or more of heroin, five kilograms or more of cocaine or cocaine base, one hundred grams or more of phencyclidine, ten grams or more of lysergic acid diethylamide, or fifty grams or more of methamphetamine or five hundred grams of a substance or material containing a measurable amount of methamphetamine, 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 nor more than thirty years.

(d) Notwithstanding the provisions of subsection (b) of this section, any person violating or causing a violation of subsection (a) of this section involving one hundred but fewer than 1000 grams of heroin, not less than five hundred but fewer than 5,000 grams of cocaine or cocaine base, not less than ten but fewer than ninety-nine grams of phencyclidine, not less than one but fewer than ten grams of lysergic acid diethylamide, or not less than five but fewer than fifty grams of methamphetamine or not less than fifty grams but fewer than five hundred grams of a substance or

material containing a measurable amount of methamphetamine, 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 nor more than twenty years.

(e) Notwithstanding the provisions of subsection (b) of this section, any person violating or attempting to violate the provisions of subsection (a) of this section involving not less than ten grams nor more than one hundred grams of heroin, not less than fifty grams nor more than five hundred grams of cocaine or cocaine base, not less than two grams nor more than ten grams of phencyclidine, not less than two hundred micrograms nor more than one gram of lysergic acid diethylamide, or not less than four hundred ninety nine milligrams nor more than five grams of methamphetamine or not less than twenty grams nor more than fifty grams of a substance or material containing a measurable amount of methamphetamine 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 nor more than fifteen years.

~~(e)~~(f) The offense established by this section shall be in addition to and a separate and distinct offense from any other offense set forth in this code.”

And,

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

Com. Sub. for H. B. 2579 – “A Bill to amend and reenact §60A-4-409 of the Code of West Virginia, 1931, as amended, relating to the offense of transporting illegal substances into the state generally; increasing penalties for illegal transportation of controlled substances into the state; clarifying that causing illegal transportation of controlled substances into the state is prohibited; treating marihuana as a Schedule IV controlled substance for penalty purposes; and creating enhanced criminal penalties for transporting certain controlled substances into the state based on quantity.”

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. 2585, Creating felony crime of conducting financial transactions involving proceeds of criminal activity.

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 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 §61-15-1, §61-15-2, §61-15-3 and §61-15-4, all to read as follows:

ARTICLE 15. MONEY LAUNDERING.

§61-15-1. Definitions.

As used in this article, unless the context clearly indicates otherwise:

(1) 'Conducts' includes, but is not limited to, initiating, concluding, participating in, or assisting in a transaction.

(2) 'Criminal activity' means a violation of:

(A) The felony provisions of section eleven, article forty-one, chapter thirty-three of this code;

(B) Felony violations of chapter sixty-a of this code;

(C) Felony violations of article two of this chapter;

(D) The provisions of sections one, two, three, four, five, eleven, twelve, subsection (a), section thirteen, fourteen, eighteen, nineteen, twenty, twenty-a, twenty-two, twenty-four, twenty-four-a, twenty-four-b and twenty-four-d, article three of this chapter;

(E) Felony provisions of article three-c, three-e and four of this chapter;

(F) The provisions of section eight, article eight of this chapter; and

(G) The felony provisions of articles eight-a, eight-c and fourteen of this chapter.

(3) 'Cryptocurrency' means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and which operate independently of a central bank.

(4) 'Financial institution' means a financial institution as defined in 31 U. S. C. §5312 which institution is located in this state.

(5) 'Financial transaction' means a transaction which effects intrastate, interstate or foreign commerce, and:

(A) Involves the movement of funds by wire or other means;

(B) Involves the use of a monetary instrument;

(C) Involves the transfer of title to real or personal property; or

(D) Involves the use of a financial institution which is engaged in, or the activities of which effect intrastate, interstate or foreign commerce.

(6) 'Gift card' means a card, voucher or certificate which contains or represents a specific amount of money issued by a retailer or financial institution to be used as an alternative to cash purposes.

(7) 'Knowing' means actual knowledge. For purposes of this article, a person may be considered to have actual knowledge if the belief is based upon representations of a law-enforcement officer engaged in his or her official duties while acting in an undercover capacity or a person acting at the direction of a law-enforcement officer engaged in his or her official duties.

(8) 'Monetary instruments' means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, gift cards, prepaid credit cards, money orders, cryptocurrency, investment securities in bearer form or otherwise in such form that title thereto passes

upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(9) 'Proceeds' means property or monetary instrument acquired or derived, directly or indirectly, from, produced through, realized through, or caused by an act or omission and includes property, real or personal, of any kind.

(10) 'Property' means anything of value, and includes any interest therein, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, and monetary instruments.

(11) 'Transaction' means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, 'transaction' includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through or to a financial institution, by whatever means effected.

§61-15-2. Laundering through financial transactions.

(a) It is unlawful for any person to conduct or attempt to conduct a financial transaction involving the proceeds of criminal activity knowing that the property involved in the financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity:

(1) With the intent to promote the carrying on of the criminal activity; or

(2) Knowing that the transaction is designed in whole or part:

(i) To conceal or disguise the nature, location, source, ownership, or control of the proceeds of the criminal activity; or

(ii) To avoid any transaction reporting requirement imposed by law.

(b) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is less than \$1,000 is guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than one year or fined not more than \$1,000, or both confined and fined.

(c) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is not less than \$1,000 nor more than \$20,000 is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than one nor more than five years, or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.

(d) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction in excess of \$20,000 is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than two nor more than ten years, or fined not less than \$5,000 nor more than \$25,000, or both imprisoned and fined.

§61-15-3. Forfeiture; disgorgement.

(a) Any property or monetary instruments involved in a violation of this article, and any property or monetary instruments traceable to the violation, may be seized and forfeited consistent with the procedures in the West Virginia Contraband Forfeiture Act, as provided in article seven, chapter sixty-

a of this code: *Provided*, That in any forfeiture proceeding pursuant to this section, the burden of proof shall be by clear and convincing evidence.

(b) Notwithstanding subsection (a) of this section, the court, as part of sentencing for a violation under this article, may direct the disgorgement to a victim of any property or monetary instruments involved in the violation and any property or monetary instruments traceable to the violation.

§61-15-4. Distinguishing transactions for prosecution purposes.

(a) Notwithstanding any other provision to the contrary, each transaction committed in violation of this article constitutes a separate offense.”

And,

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

Com. Sub. for H. B. 2585 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-15-1, §61-15-2, §61-15-3 and §61-15-4, all relating to laundering of proceeds from specified criminal activities generally; defining terms; creating misdemeanor and felony offenses of conducting financial transactions involving proceeds of criminal activity; distinguishing between offenses based on monetary value of transaction; providing for penalties; providing for seizure and forfeiture of property or monetary instruments; establishing the burden of proof in a forfeiture proceeding; authorizing sentencing court to order disgorgement at disposition; and clarifying conduct that constitutes separate offenses.”

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. 2589, Permitting students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational school.

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 clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-15g; and that said code be amended by adding thereto a new article, designated §18-21A-1, §18-21A-2, §18-21A-3, §18-21A-4, §18-21A-5, §18-21A-6 and §18-21A-7, all to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15g. Vocational education classes for homeschooled and private schooled students.

County boards shall permit students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational schools, if the county offers vocational classes either itself

or through a joint vocational program or service with another county or counties. These students may not be charged more than public school students of compulsory school age.

ARTICLE 21A. CAREER AND TECHNICAL EDUCATION PILOT PROGRAM FOR MIDDLE SCHOOL STUDENTS.

§18-21A-1. Short title.

This article may be cited as the Middle School Technical Education Program Act or the Middle School STEP Act.

§18-21A-2. Legislative findings.

(a) Career and technical education prepares students to be both college and career ready by providing core academic, technical and employability skills.

(b) High-quality career and technical education programs not only ensure that coursework is aligned with rigorous academic standards and post-secondary expectations, but are built to address specific skills needed in certain career pathways.

(c) Eighty percent of students taking a college preparatory academic curriculum with rigorous career and technical education courses met college and career readiness goals, compared to only sixty-three percent of students taking the same academic core who did not experience rigorous career and technical education courses.

(d) Furthermore, a 2008, study from American College Testing showed that if students are not on target for college and career readiness by the end of eighth grade the impact may be nearly irreversible. The level of academic achievement that students attain by eighth grade has a larger impact on their college and career readiness by the time they graduate from high school than any other academic factor.

(e) Given the importance of career and technical education programs in fostering college and career readiness, and the determinative impact that eighth grade achievement has on future academic and professional success, it is essential that middle school students are informed about and prepared to take advantage of career and technical education programs in their local communities.

§18-21A-3. Purpose.

The purpose of the pilot program shall be to better prepare seventh and eighth grade students to take advantage of West Virginia's Career and Technical Education programs and to improve students' college and career readiness prior to high school. For the purposes of this article, 'middle school' means any school containing the seventh and eighth grade levels.

§18-21A-4. Organization of special pilot program.

(a) Funding. – Participating middle schools shall use existing resources to implement the pilot program.

(b) Instructor Qualifications. – Qualified instructors include, but are not limited to, teachers, counselors and other middle school staff possessing a post-secondary degree. Instructors are not required to obtain any additional certification or license to instruct the course. Nothing in this article

or chapter eighteen-a or this code prohibits principals or vice-principals, on a voluntary basis, from participating in the program as a guest instructor or speaker.

(c) *Elective Course.* – The pilot program shall be a one semester elective course: *Provided, That middle schools with alternative scheduling systems may adapt the program to suit their scheduling needs.*

(d) *Local Partners.* – High schools, vocational schools, community colleges, public universities and any other institute of higher learning that receives funding from the State of West Virginia shall provide speakers to participating middle schools upon the middle school's request: *Provided, That the entity providing the speaker is located within fifty miles of the requesting middle school.*

§18-21A-5. Curriculum.

(a) *Guest Speakers.* – Course instructors shall schedule weekly guest speakers to introduce students to a particular career and to prepare students to pursue the featured career by providing relevant information on:

- (1) Education requirements;
- (2) Cost of education;
- (3) Availability of education;
- (4) Average salary;
- (5) Average longevity; and
- (6) Transferability of skills.

Instructors are encouraged to invite professionals excelling in fields where training is available at the local career and technical education school.

(b) *On-Site Research.* – Instructors may organize field trips to visit local employers, job fairs, high schools, vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions to introduce students to potential career paths via on-site presentations and experiential learning.

(c) *Career Skills.* – The course shall include instruction on skill sets required to discover and take advantage of employment opportunities, including, but not limited to:

- (1) Performing a job search;
- (2) Developing a résumé;
- (3) Preparing for a job interview; and
- (4) Developing and deploying personal networks to find job opportunities.

(d) *Academic Skills.* – The course shall include instruction on skill sets required to discover and take advantage of educational opportunities, including, but not limited to:

(1) Researching admissions requirements for vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(2) Researching employment rates and average salaries for graduates of vocational schools, community colleges, technical schools, public and private universities and other post-secondary academic institutions;

(3) Researching employment rates and average salaries for specific degrees, certifications and majors from post-secondary academic institutions;

(4) Researching state, federal and private scholarship and grant opportunities; and

(5) Preparing a college or technical school application.

(e) *Personal Graduation Plan.* – For successful completion of the course, a student shall create a “Personal Graduation Plan” outlining his or her plan to become employable following high school or post-secondary school.

§18-21A-6. Admission process for middle schools.

(a) *Authority.* – The state board shall establish guidelines for middle schools to submit a request for the school’s admission in the pilot program and the state board may admit middle schools into the pilot program.

(b) *Admissions.* – Middle schools may volunteer to implement the program by submitting a request to the state board and admission shall be on a first-come, first-serve basis.

(c) *Minimum School Participation.* – It is the goal of the pilot program that a minimum of ten middle schools participate each year during the pilot program’s existence. If ten middle schools have not been admitted into the program by July 1 preceding the academic year, the state board may solicit additional middle schools to participate in the pilot program to meet the minimum participation goal, but may not require the participation of any middle school.

§18-21A-7. Certification and monitoring.

(a) *Certificate of Completion.* – Students shall receive a West Virginia STEP Certificate verifying their participation in the pilot program upon successful completion of the course.

(b) *Monitoring.* – The state board shall report to the Legislative Oversight Commission on Education Accountability each year on the graduation, post-secondary participation, and to the extent practicable, job placement rates, in the aggregate, of students that have received a West Virginia STEP Certificate following successful completion of the pilot program.”

And,

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

Com. Sub. for H. B. 2589 – “A Bill to amend and Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15g; and to amend said Code by adding thereto a new article, designated §18-21A-1, §18-21A-2, §18-21A-3, §18-21A-4, §18-21A-5, §18-21A-6; and §18-21A-7, all relating to vocational education; requiring county boards to permit students who are homeschooled or attend private schools to enroll and take classes at the county’s vocational schools;

creating the Middle School Technical Education Program Act; setting forth findings and purpose; requiring participating middle schools to use existing resources to implement the pilot program; providing for instructor qualifications; allowing principals or vice-principals, on a voluntary basis, to participate as a guest instructor or speaker; requiring pilot program to be a one semester elective course except middle schools with alternative scheduling systems can adapt the program to meeting scheduling needs; requiring certain entities within fifty miles that receive state funding to provide speakers upon request; requiring guest speakers to be scheduled weekly to introduce students to a particular career and to prepare students to pursue the featured career by providing information on certain specified topics; allowing organization of field trips to introduce students to potential career paths; requiring course to include instruction on certain minimum skill sets required to discover and take advantage of employment opportunities; requiring course to include instruction on certain minimum skill sets required to discover and take advantage of educational opportunities; requiring as condition of successful course completion, students to outline his or her plan to become employable following high school or post-secondary school; requiring State Board of Education to establish guidelines for middle schools to submit a request for the schools admission; allowing state board to admit middle schools into the program; requiring admission on first come, first serve basis; declaring goal that a minimum of ten middle schools participate each year; allowing state board to solicit additional middle schools to participate under certain condition; prohibiting the state board from requiring participation; requiring students to receive a West Virginia STEP Certificate upon successful completion; and requiring annual report to the legislative oversight commission on education accountability.”

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

Resolutions Introduced

Delegates Ellington, Arvon, Atkinson, Baldwin, Bates, Criss, Dean, Fleischauer, Fluharty, Hill, Hollen, Love, Pushkin, Queen, Robinson, Rohrbach, Rowan, Sobonya, Summers and White offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 129 – “Requesting the Joint Committee on Government and Finance study the progress of the West Virginia Office on Drug Policy.”

Whereas, Low education levels, high rates of unemployment and job-related injuries are closely linked to abuse of alcohol, illicit drugs and prescription medications and West Virginia meets that criteria; and

Whereas, West Virginia continues to be among the states that lead the country in drug overdoses, and overdose deaths per capita; and

Whereas, In West Virginia, 28.9 per every 100,000 people suffer prescription drug overdose fatalities; and

Whereas, During the 2017 legislative session the State Legislature created the Office on Drug Policy; and

Whereas, The Office on Drug Policy has been charged with devising a plan to reduce the prevalence of drug and alcohol abuse by at least ten percent; therefore be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Health & Human Resources is hereby requested to study and assess the progress of the Office on Drug Policy; 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 need to effectuate its recommendations; and, be it

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

Delegates Ellington, Arvon, Atkinson, Criss, Dean, Hill, Hollen, Householder, Longstreth, Queen, Rodighiero, Rowan and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 130 – “Requesting the Joint Committee on Government and Finance study the feasibility of selling West Virginia’s state owned mental health facilities.”

Whereas, West Virginia owns two mental health facilities - William R. Sharpe Hospital and Mildred Mitchell-Bateman Hospital; and

Whereas, In 1982, the West Virginia Supreme Court found that it was contrary to West Virginia Mental Health Law for the Department of Health and Human Resources to “warehouse” individuals in state mental institutions; and

Whereas, After several years of improvements, court monitoring and aggressive oversight the DHHR continues to lag in court orders regarding understaffing and patient care; and

Whereas, The State of West Virginia continues to dedicate large amounts of its budget attempting to comply with ongoing orders and legal fees; and

Whereas, It is the Legislature’s intent to review the current status of state mental hospitals and determine all available options in order to maintain a financially sound yet responsible approach in meeting patient needs; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study and assist in the conclusion of the “Hartley Case” as it affects the state’s two psychiatric hospitals; 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, prepare a report and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Ellington, Arvon, Atkinson, Bates, Criss, Dean, Fleischauer, Hill, Hollen, Householder, laquinta, Longstreth, Queen, Rodighiero, Rohrbach, Sobonya, Summers and White offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 131 – “Requesting the Joint Committee on Government and Finance study the possibilities of introducing legislation aimed at reforming Preauthorization procedures.”

Whereas, Physicians and their staff must spend an ample amount of time each day completing prior authorization requests instead of seeing patients; and

Whereas, Some physicians have even reported that they have had to hire staff for the sole purpose of completing prior authorization requests; and

Whereas, A weekly per-physician average of 37 prior-authorization requirements consume an average of 16 hours of practice time, according to a December 2016 survey of 1,000 practicing physicians; and

Whereas, Other states, including ones bordering West Virginia have begun to enact laws that require insurance companies to respond to prior authorization requests in a timely manner; and

Whereas, At least sixteen other states have implemented a common electronic prior authorization form in an effort to create a uniform form that is familiar to all medical professionals and insurance providers, and to expedite the present lengthy process of receiving a response from insurance companies; and

Whereas, Loosening prior authorization protocols will enable sufferers of opioid addiction to obtain medication to treat their problem in a quicker fashion; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the possibilities of introducing legislation aimed at reforming Preauthorization procedures; 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 and to prepare and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Rohrbach, Cowles, Maynard, Walters and Westfall offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 132 – “Requesting the Joint Committee on Government and Finance to study the feasibility of the creation of an ‘Advisory Council on Rare Diseases’.”

Whereas, Rare disease is defined as one in ten Americans or ten percent of the U.S. population are living with a rare disease. Approximately fifty percent of the people affected by a rare disease are children and eighty percent of rare diseases are genetic in origin, and thus present throughout a person’s life; and

Whereas, The advisory councils intent would be to improve the lives of millions of people with one of the seven thousand devastating rare diseases by developing a unique collaborative partnership between patients, providers, scientists, agencies and industry; and

Whereas, The advisory council would advise on coordinating statewide efforts for the study on the incidence of rare diseases within the state and the status of the rare disease community

Whereas, The advisory council shall also ensure the citizens of West Virginia by investigating and recommending changes to existing structures or policies within the state that could better serve West Virginians and their families, care givers, medical providers, researchers, therapeutics concerning rare diseases; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of creating an advisory council on rare diseases; and, be it

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

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

Delegates Howell, Ellington, Arvon and Butler offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 133 – “Requesting the Joint Committee on Government and Finance study tobacco/smoking harm reduction policies as a strategy for reducing smoking-attributable death and disease and the associated health care costs in West Virginia.”

Whereas, For decades, West Virginia has pursued policies intended to encourage residents who smoke to quit and to discourage others who do not smoke from starting. 25.7 percent of the adult population smoke, and their smoking-attributable disease and death cost West Virginia \$277.3 million in Medicaid costs each year; and

Whereas, Numerous public health organizations, such as the Institute of Medicine, the Royal College of Physicians, Public Health England, University of Victoria’s Centre for Addictions Research, and Cancer Research UK, have recognized that there is a continuum of risk among tobacco product types; and

Whereas, The 2014 Surgeon General Report stated “The burden of death and disease from tobacco use in the United States is overwhelmingly caused by cigarettes and other combusted tobacco products; rapid elimination of their use will dramatically reduce this burden”; and

Whereas, Because of the smoke and harmful constituents associated with smoke, the risks associated with cigarette use are substantially greater than those associated with the use of smokeless tobacco products and vapor products; and

Whereas, While abstaining from all tobacco is the most effective way for smokers to reduce their risk of disease and premature death, as no tobacco product has been shown to be safe, over ninety percent of smokers who attempt to quit fail; and

Whereas, For those who cannot abstain from smoking, they can substantially reduce their risk of disease and premature death by switching from cigarettes to a less harmful source of nicotine, such as smokeless tobacco products, vapor products, and nicotine replacement therapies (NRTs); and

Whereas, Eighty percent of smokers believe nicotine causes cancer, and seventy-four percent of smokers do not believe smokeless tobacco products are less harmful than cigarettes; and

Whereas, Misconceptions about the harmfulness of nicotine prevents the use of NRTs. and in the two-thirds of people who believe NRT is harmful only thirty percent of them had used NRT in the past; and

Whereas, Sixty percent of youth who use smokeless tobacco also smoke cigarettes, and there is evidence that indicates anti-smokeless campaigns push dual users to sole cigarette use; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance to study tobacco/smoking harm reduction policies as a strategy for reducing smoking-attributable death and disease and the associated health care costs in West Virginia; 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 any recommendations; and, be it

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

Delegates Ellington and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 134 – “Requesting the Joint Committee on Government and Finance to conduct a study on the feasibility of dividing the Department of Health and Human Resources into more than one distinct agency, and restructuring Medicaid.”

Whereas, When Governor Gaston Caperton became Governor in 1989, he persuaded the Legislature to adopt a sweeping executive branch reform initiative that expanded the Governor’s control over agencies, with the intent of making agencies more streamlined and efficient; and

Whereas, One of the positions created was the position of Cabinet Secretary of the Department of Health and Human Resources; and

Whereas, Since then, the Department of Health and Human Resources has grown tremendously with an increased staff of over 6,000 employees responsible for well over 25 expansive and critical programs which serve the entire state; and

Whereas, The Department of Health and Human Resource budget has grown to well over \$3.5 billion and has easily become the most comprehensive agency in state government; and

Whereas, With this immense growth and responsibility, the Department has developed system-wide problems which need rapid corrections; and

Whereas, Although the Secretary of the Department of Health and Human Resources has proven himself or herself to be quite capable, with the responsibility for all of the employees and programs offered by the agency, he or she cannot realistically focus on any one program in a profound way; and

Whereas, As a direct result of lack of resources and adequate focus, the Department of Health and Human Resources has been taken to court regularly by community groups and clients for its inability to meet the huge expectations of the agency; and

Whereas, The State of West Virginia can no longer ignore the problems and continuing questions about DHHR's effectivity any longer; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the feasibility of dividing the Department of Health and Human Resources into more than one entity and to determine the benefits and risks from both a financial perspective and a programmatic perspective of such a division; 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.

Delegates Ellington, Arvon, Atkinson, Bates, Criss, Dean, Fleischauer, Hill, Hollen, Householder, Love, Queen, Rodighiero, Rohrbach and Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 135 – “Requesting the Joint Committee on Government and Finance study the structure and duties of the West Virginia Medical Examiner’s Office.”

Whereas, Currently there is one autopsy center in West Virginia to handle an increasing number of forensic autopsies a year – with one currently unstaffed branch located in Morgantown; and

Whereas, The primary function of the Office of the Chief Medical Examiner is to perform death investigations, establish cause and manner of death, formulate conclusions, opinions or testimony in judicial proceedings, and to be available for consultations as necessary; and

Whereas, In 2015, the West Virginia Medical Examiner’s office completed 1,236 autopsies; and

Whereas, There continues to be a shortage of pathologists in the state to provide adequate services for timely autopsies; and

Whereas, Autopsy cases require time-consuming transports from throughout WV to Charleston to be handled; and

Whereas, An autopsy can take anywhere from forty-five minutes to two days - once the autopsy is completed, more time is needed to write the report. There are further delays in any case in which

the medical examiner has to consult with another agency or professional, such as toxicologists, the fire marshal, the Drug Enforcement Administration or the FBI; and

Whereas, Grand jury trial delays occur due to delay in autopsy reports; and

Whereas, The National Association of Medical Examiners recommends that each doctor perform no more than 250 autopsies per year; and

Whereas, A 2009 study by the National Academy of Sciences found that there were fewer than 500 licensed forensic pathologists in the country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the structure and duties of the West Virginia Medical Examiner's Office; and, be it

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

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

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 136 – “Requesting the Joint Committee on Government and Finance to study the issues, needs and challenges facing senior citizens in this state and to study the feasibility of developing and providing additional effective tools, resources and best practices to address the health, safety, welfare and other concerns of our senior citizens.”

Whereas, West Virginia has the second largest percentage of senior population in the nation; over sixteen percent of West Virginians are senior citizens sixty-five years of age or older and it has been projected that by 2035, the senior citizen population will constitute almost one fourth of the state's total population; and

Whereas, It is well known that many of our seniors lack adequate resources and have limited financial ability to meet their needs for increased services for the necessities of life, such as personal care, health care, housing, utilities, nutrition, transportation and mobility needs and ultimately, long term care which they need and have the decreasing ability to provide for themselves as they mature; and

Whereas, Findings from recent studies reveal several negative trends of seniors in this state: Approximately forty-five percent of West Virginia seniors have a disability, compared to thirty-seven percent nationally; one in three elder state residents is in fair to poor health; for approximately one in three seniors, Social Security is the sole source of income; and relatively few of those seniors eligible take advantage of other supports like the SNAP program or utility assistances; and

Whereas, The increasing demand for current public, as well as private senior services in West Virginia already has become an increasing topic of concern by public as well as private agencies and service providers serving seniors in the state as well as various private senior advocacy groups; and

Whereas, There is an increase of children being raised in this state by senior grandparents who assume the responsibility to care for these children because of unstable parents; these seniors in many instances face difficulties or are denied the ability to attend to the child's educational needs and may be denied other public benefits available for the child as a result of not having proper legal guardianship or custody, thereby resulting in increased physical, emotional and financial strain on these senior grandparents; and

Whereas, These senior demographic trends are going to have increasing consequences for senior citizens and their families as well as on the many state and local programs that provide senior services; and

Whereas, The Legislature finds that these emerging complex issues facing seniors today and in the immediate future in this state need to be addressed by a comprehensive study and examination; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the issues, needs and challenges facing senior citizens in this state and to study the feasibility of developing and providing additional effective tools, resources and best practices to address the health, safety, welfare and other concerns of our senior citizens; and, be it

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

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

Petitions

Delegates Fleischauer and Pyles presented a petition signed by constituents to request presidential candidates on the West Virginia ballot to release ten years of tax returns and that the information be made public; which was referred to the Committee on the Judiciary.

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

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 465**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 13) adopted.

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

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

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,

And,

H. C. R. 127, Interim study relating to public schools.

Action on Senate Messages

Com. Sub. for H. B. 2839, Updating the procedures for legislative review of departments and licensing boards; coming up in regular order, as unfinished business, was reported by the Clerk.

On motion of Delegate Cowles, the House 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 10. PERFORMANCE REVIEW ACT.

§4-10-3. Definitions.

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

(a) 'Agency' or 'state agency' means a state governmental entity, including any bureau, department, division, commission, agency, committee, office, board, authority, subdivision, program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution, survey, position, coalition or other entity in the State of West Virginia.

(b) 'Agency review' means a review performed on agencies of a department pursuant to the provisions of this article.

(c) 'Committee' means the Joint Committee on Government Operations.

(d) 'Compliance review' means a review for compliance with recommendations contained in a previous agency review or regulatory board review conducted pursuant to the provisions of this article and may include further inquiry of other issues as directed by the President, the Speaker, the Legislative Auditor, the committee or the joint standing committee.

(e) 'Department' means the departments created within the executive branch, headed by a secretary appointed by the Governor, as authorized by the Code of West Virginia.

(f) 'Department presentation' means a presentation by a department pursuant to the provisions of this article.

(g) 'Division' means the Performance Evaluation and Research Division, the Post Audit Division, of the Legislative Auditor or any division of the Legislative Auditor's Office.

(h) 'Joint standing committee' means the Joint Standing Committee on Government Organization.

(i) 'Privatize' means a contract to procure the services of a private vendor to provide a service that is similar to, and/or in lieu of, a service provided by a state agency.

(j) 'Regulatory Board' means a board that regulates professions and occupations, created under the provisions of chapter thirty of this code.

(k) 'Regulatory Board Review' means a review performed on a regulatory board pursuant to the provisions of this article.

§4-10-6. Department presentation and schedule; timing and scope.

~~(a) During the 2007 legislative interim period, each department shall make a presentation pursuant to the provisions of this section to the joint standing committee and the committee.~~

~~(b) The department shall provide to the joint standing committee and the committee a written copy of the presentation.~~ (a) During the calendar year in which a department is scheduled for an agency review pursuant to section eight of this article, and upon notification from the joint standing committee or the division, the department shall prepare and present a department presentation to the joint standing committee and the committee. The purpose of the presentation is to inform the Legislature as to the programs, activities and financial situation of the department and to update and amend any information previously presented to the joint standing committee or committee pursuant to this section. The presentation shall include:

(1) A departmental chart designating each agency under the purview of the department;

(2) An analysis of the department's internal performance measures and self-assessment systems; and

(3) For each agency under the purview of the department, the following:

(A) The mission, goals and functions of the agency;

(B) The statutory or other legal authority under which the agency operates;

(C) The number of employees of the agency for the immediate past ten years;

(D) The budget for the agency for the immediate past ten years;

(E) Any potential or actual loss of revenue due to operations, changes in law or any other reason;

(F) The extent to which the agency has operated in the public interest;

(G) The extent to which the agency has complied with state personnel practices, including affirmative action requirements;

(H) The extent to which the agency has encouraged public participation in the making of its rules and decisions and has encouraged interested persons to report to it on the impact of its rules and decisions on the effectiveness, economy and availability of services that it has provided;

(I) The efficiency with which public inquiries or complaints regarding the activities of the agency have been processed and resolved;

(J) The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency to better serve the interests of the public and to comply with the factors enumerated in this subsection; and

(K) A recommendation as to whether the agency should be continued, consolidated or terminated.

~~(c) The schedule for the presentations by the departments shall be as follows:~~

~~(1) May, 2007, Department of Administration;~~

~~(2) June, 2007, Department of Education and the Arts;~~

~~(3) July, 2007, Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;~~

~~(4) August, 2007, Department of Revenue;~~

~~(5) September, 2007, Department of Environmental Protection;~~

~~(6) October, 2007, Department of Health and Human Resources, including the Bureau of Senior Services;~~

~~(7) November, 2007, Department of Commerce;~~

~~(8) December, 2007, Department of Military Affairs and Public Safety; and~~

~~(9) January, 2008, Department of Transportation.~~

§4-10-7. Agency review.

(a) The committee and the Joint Standing Committee shall conduct agency reviews, or authorize the division to conduct agency reviews as one of its duties in addition to its other duties prescribed by law, in accordance with generally accepted government auditing standards (GAGAS) as promulgated by the U.S. Government Accountability Office, on one or more of the agencies under the purview of a department, during the year in which the department is scheduled for review under the provisions of this article.

(b) The agency review may include, but is not limited to:

(1) An identification and description of the agency under review;

(2) The number of employees of the agency for the immediate past ten years;

(3) The budget for the agency for the immediate past ten years;

(4) Whether the agency is effectively and efficiently carrying out its statutory duties or legal authority;

(5) Whether the activities of the agency duplicate or overlap with those of other agencies and, if so, how these activities could be consolidated;

(6) A cost-benefit analysis, as described in subsection (e) of this section, on state services that are privatized or contemplated to be privatized;

~~(7) An analysis of the extent to which agency websites are accurate, updated and user friendly;~~

~~(8)~~ (7) An assessment of the utilization of information technology systems within the agency, including interagency and intra-agency communications;

~~(9)~~ (8) An analysis of any issues raised by the presentation made by the department pursuant to the provisions of this article;

~~(10)~~ (9) An analysis of any other issues as the committee or the Joint Standing Committee may direct; and

~~(11)~~ (10) A recommendation as to whether the agency under review should be continued, consolidated or terminated.

(c) The committee or the Joint Standing Committee may vote on the recommendation as to whether the agency under review should be continued, consolidated or terminated. Recommendations of the committee or the Joint Standing Committee shall be given considerable weight in determining if an agency should be continued, consolidated or terminated.

(d) An agency may be subject to a compliance review pursuant to the provisions of this article.

(e) A cost-benefit analysis authorized by this section may include:

(1) The tangible benefits of privatizing the service;

(2) Any legal impediments that may limit or prevent privatization of the service;

(3) The availability of multiple qualified and competitive private vendors; and

(4) A cost comparison, including total fixed and variable, direct and indirect, costs of the current governmental operation and the private vendor contract.

§4-10-8. Schedule of departments for agency review.

(a) Each department shall make a presentation, pursuant to the provisions of this article, to the Joint Standing Committee and the committee during the first interim meeting after the regular session of the year in which the department is to be reviewed pursuant to the schedule set forth in subsection (b) of this section.

(b) An agency review shall be performed on one or more agencies under the purview of each department at least once every seven years, as follows:

~~(1) 2013, the Department of Transportation;~~

~~(2) 2014, the Department of Administration;~~

~~(3) 2015, the Department of Education, including the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education;~~

~~(4) 2016, the Department of Veterans' Assistance and the Department of Education and the Arts;~~

~~(5) 2017, the Department of Revenue and the Department of Commerce;~~

~~(6) 2018, the Department of Environmental Protection and the Department of Military Affairs and Public Safety;~~

~~(7) 2019, the Department of Health and Human Resources, including the Bureau of Senior Services; and~~

~~(8) 2020, the Department of Transportation.~~

(1) 2017: The Department of Revenue and the Department of Commerce;

(2) 2018: The Department of Environmental Protection and the Department of Military Affairs and Public Safety;

(3) 2019: The Department of Health and Human Resources, including the Bureau of Senior Services;

(4) 2020: The Department of Transportation;

(5) 2021: The Department of Administration;

(6) 2022: The Department of Education, the Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education; and

(7) 2023: The Department of Veterans' Assistance and the Department of Education and the Arts.

§4-10-10. Regulatory board review schedule.

(a) A regulatory board review is required for all regulatory boards.

(b) A regulatory board review shall be performed on each regulatory board at least once every twelve years, commencing as follows:

~~(1) Two thousand eight: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.~~

~~(2) Two thousand nine: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.~~

~~(3) Two thousand ten: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.~~

~~(4) Two thousand eleven: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.~~

~~(5) Two thousand twelve: Board of Occupational Therapy; Board of Examiners for Speech-Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.~~

~~(6) Two thousand thirteen: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.~~

~~(7) Two thousand fourteen: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.~~

~~(8) Two thousand fifteen: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects.~~

~~(9) Two thousand sixteen: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.~~

~~(10) Two thousand seventeen: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.~~

~~(11) Two thousand eighteen: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.~~

(1) 2017: Board of Accountancy; Board of Respiratory Care Practitioners; and Board of Social Work Examiners.

(2) 2018: Board of Examiners of Psychologists; Board of Optometry; and Board of Veterinary Medicine.

(3) 2019: Board of Acupuncture; Board of Barbers and Cosmetologists; and Board of Examiners in Counseling.

(4) 2020: Board of Hearing Aid Dealers; Board of Licensed Dietitians; and Nursing Home Administrators Board.

(5) 2021: Board of Dental Examiners; Board of Medicine; and Board of Pharmacy.

(6) 2022: Board of Chiropractic Examiners; Board of Osteopathy; and Board of Physical Therapy.

(7) 2023: Board of Occupational Therapy; Board of Examiners for Speech-Language Pathology and Audiology; and Medical Imaging and Radiation Therapy Board of Examiners.

(8) 2024: Board of Professional Surveyors; Board of Registration for Foresters; and Board of Registration for Professional Engineers.

(9) 2025: Board of Examiners for Licensed Practical Nurses; Board of Examiners for Registered Professional Nurses; and Massage Therapy Licensure Board.

(10) 2026: Board of Architects; Board of Embalmers and Funeral Directors; and Board of Landscape Architects; and

(11) 2027: Board of Registration for Sanitarians; Real Estate Appraiser Licensure and Certification Board; and Real Estate Commission.

§4-10-14. Nullifying agency and regulatory board termination under prior law. Provision for other reviews; consolidation, termination and reorganization of agencies or programs.

~~No agency or regulatory board terminates pursuant to references to this article.~~

(a) The specifications of schedules for, and the scope of, agency and regulatory board reviews in this article shall not preclude a legislative review or reevaluation of any agency or program at other times. The Joint Standing Committee may request a review of the performance, purpose, efficiency and effectiveness of any agency or program any time that circumstances may require, including, but not limited to, the following:

(1) Expressed or implied statutory expiration of an agency or program;

(2) Creation of new, or the amendment of existing, federal law affecting the agency or program;

(3) Redundant purposes or functions in more than one agency or program or within an agency;

(4) Completion or satisfaction of agency or program objectives;

(5) Persistent inefficiencies in the delivery of services or in the accomplishment, or lack thereof, of statutory objectives;

(6) Fiscal constraints requiring changes in staffing, resources or goals; and

(7) Changes in legislative policy or direction.

(b) Following the completion of a review by the division and the Joint Standing Committee, with responses and comment from the subject agency or regulatory board, the Joint Standing Committee may recommend or propose the consolidation, termination or reassignment of the agency, program or regulatory board reviewed.

(c) Nothing in this article shall be construed as limiting or interfering with the right of any member of the Legislature to introduce, or of the Legislature to enact, any bill that would terminate, consolidate

or reorganize one or more state agencies or programs without a review conducted under the terms of this article.”

And,

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

Com. Sub. for H. B. 2839 – “A Bill to amend and reenact §4-10-3, §4-10-6, §4-10-7, §4-10-8, §4-10-10 and §4-10-14 of the Code of West Virginia, 1931, as amended, all relating to generally the West Virginia Performance Review Act; modifying the definition of the term ‘division’; modifying the timing and scope of department presentations; updating the schedules of department presentations, agency reviews and regulatory board reviews; eliminating the requirement that an agency review include an analysis of agency websites; and authorizing the Joint Standing Committee on Government Organization to request a review of any agency or program and to recommend or propose the consolidation, termination or reassignment of the agencies or programs reviewed.”

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. 466**), 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: White.

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. 2839) passed.

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

Third Reading

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

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 467**), and there were—yeas 90, nays 8, absent and not voting 2, with the yeas, nays and absent and not voting being as follows:

Yeas: Ambler, Anderson, Avon, Atkinson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Diserio, Eldridge, Ellington, Espinosa, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, G. Foster, N. Foster, Frich, Hamilton, Hamrick, Hanshaw, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Howell, Iaquina, Isner, Kelly, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, Miley, C. Miller, R. Miller, Moore, Moye, Nelson, O’Neal, Overington, Pethtel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Rowe, Shott, Sobonya, Sponaule, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Ward, Westfall, Williams, Wilson, Zatezalo and Mr. Speaker, Mr. Anderson.

Nays: Deem, Fast, Folk, Gearheart, Kessinger, Martin, McGeehan and Paynter.

Absent and Not Voting: Walters and White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (Com. Sub. for S. J. R. 6) adopted, as follows:

Com. Sub. for S. J. R. 6 – “Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section twelve, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$1.6 billion to be used for improvement and construction of state roads; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place in 2017 to be set by the Governor; and providing a summarized statement of the purpose of such proposed amendment.”

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held at a date set by the Governor in 2017 and proclaimed in accordance with section three, article eleven, chapter three of the Code of West Virginia, which proposed amendment is that article X thereof be amended by adding thereto a new section, designated section twelve, to read as follows:

“ARTICLE X. TAXATION AND FINANCE.

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."

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

S. B. 27, Relating to microprocessor permit; 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. 468**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast, laquinta and Moye.

Absent and Not Voting: Sponaugle and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 27) passed.

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

S. B. 27 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-35-5, relating to a microprocessor; establishing permit requirements; establishing permit limitations; clarifying types of microprocessor kitchens; requiring percentage from garden or farm; requiring recordkeeping; requiring labeling; setting forth labeling requirements; clarifying foods requiring permit; exempting certain foods; setting forth permit inspections; establishing fees; allowing suspension of products; permitting recalls; setting forth production prohibitions and limiting sales."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 469**), 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: Sponaugle and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 40) 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. 40 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25b, relating to emergency action plans for athletics; providing that the West Virginia Secondary Athletics Commission promulgate rules to establish guidelines for emergency action plans by August 1, 2017; establishing parameters for said rules; requiring all member schools to submit emergency action plans to the commission and their county boards of education by December 31, 2107; providing that a copy of the plan be provided to local response agencies identified in the plan; setting forth a limit of liability; and providing for an effective date."

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

On this question, the yeas and nays were taken (**Roll No. 470**), 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: R. Romine, Sponaugle and White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 40) takes effect August 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. 116, Authorizing MAPS 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. 471**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Love and Walters.

Absent and Not Voting: R. Romine and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 116) passed.

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

Com. Sub. for S. B. 116 - "A Bill to amend and reenact §64-6-1, §64-6-2 and §64-6-3 of the Code of West Virginia, 1931, as amended, all relating to authorizing certain Department of Military Affairs and Public Safety legislative rules; authorizing certain agencies to promulgate certain legislative rules as presented to the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain Department of Military and Public Service; legislative rules authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law-enforcement training and certification standards; authorizing the State Fire Marshal to promulgate a legislative rule relating to the regulation

of fireworks and related explosive material; and authorizing the Division of Justice and Community Services to promulgate a legislative rule relating to the William R. Laird, IV- second chance driver's license program.”

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

On this question, the yeas and nays were taken (**Roll No. 472**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: A. Evans, Folk, R. Romine and White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 116) 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. 174, Exempting transportation of household goods from PSC jurisdiction; on third reading, coming up in regular order, was read a third time.

Delegate Pushkin requested to be excused from voting on the passage of S. B. 174 under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 473**), and there were—yeas 66, nays 31, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks, Higginbotham, Hornbuckle, Iaquina, Lane, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Upson and Williams.

Absent and Not Voting: A. Evans, R. Romine and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 174) passed.

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

S. B. 174 – “A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, all relating generally to the jurisdiction of the Public Service Commission over motor carriers; exempting vehicles engaged in nonemergency transportation of Medicaid members from permit requirements; and exempting the transportation of household goods from the jurisdiction of the Public Service Commission.”

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

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 474**), and there were—yeas 69, nays 28, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Ambler, Byrd, Eldridge, E. Evans, Fluharty, Folk, Frich, Gearheart, Hartman, Hicks, Hill, Howell, Love, Lynch, Marcum, Martin, McGeehan, Moye, Paynter, Pushkin, Robinson, Rowe, Statler, Storch, Thompson, Upson, Wagner and Wilson.

Absent and Not Voting: A. Evans, R. Romine and White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 202) passed.

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

Com. Sub. for S. B. 202 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §47-26-2a, relating generally to pawnbrokers; limiting pawnbrokers from purchasing, accepting in pawn, receiving in trade, accepting in exchange for goods any general-use prepaid card, gift certificate or store gift card; creating misdemeanor offense of pawnbrokers purchasing, accepting in pawn, receiving in trade or exchanging for goods a general-use prepaid card, gift certificate or store gift card; defining terms; creating exceptions; and establishing penalties.”

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. 220, Relating to offenses and penalties under Uniform Controlled Substances Act; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §60A-4-414, to read as follows:

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-414. Drug delivery resulting in death.

(a) Any person who knowingly and willfully delivers a controlled substance or counterfeit controlled substance in violation of the provisions of section four hundred one, article four of this chapter with the intent to cause an intoxicated, euphoric or stupefied state, and the use, ingestion or consumption of the controlled substance or counterfeit controlled substance alone or in combination with one or more other controlled substances, proximately causes the death of a person using, ingesting or consuming the controlled substance, 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 three nor more than fifteen years.

(b) Any person who:

(1) is present and views another individual ingest a controlled substance;

(2) is also participating in the use of a controlled substance;

(3) knows that the other person has manifested an adverse physical reaction to a controlled substance;

(4) fails to render, seek or ensure timely medical assistance has been provided to the person having the adverse reaction; and

(5) the person having the adverse reaction subsequently dies due to that ingestion, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than three years nor more than fifteen years.”

On motion of Delegates Kessinger and Hanshaw, the Judiciary Committee amendment was amended on page one, following the enacting section, by inserting the following:

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9C. CONTROLLED SUBSTANCES DATA COLLECTION.

§15-9C-1. Office of Drug Control and Data Collection.

(a) Within the Division of Justice and Community Services, there shall be a designated office known as the Office of Drug Control, Programming and Data Collection. The purpose of the office is to provide administrative support, research, coordination, planning, and management of funding relating to the prevention, prosecution, reduction and treatment of substance abuse in the state. As an office within the Division of Justice and Community Services, the office shall be deemed a law enforcement entity capable to receive and share law enforcement information.

(b) The office shall be operated, supervised and controlled by the Director of the Division of Justice and Community Services and shall utilize staff of the Division, as needed, to perform its functions, including, but not limited to its office of research and strategic planning: *Provided*, That if grant funding, federal funds or other funding is obtained in furtherance of the purposes of the office of drug control policy, such funds may be utilized to hire additional staff, including but not limited to an Executive Director, and other resources and equipment as may be necessary for the efficient operation of the office.

(c) The Office of Drug Control, Programming and Data Collection shall be charged with executive and administrative responsibility to:

(1) Collect, compile and analyze crime, justice and overdose data in the state relating to substance abuse, generating statistical and analytical products for criminal justice professionals and policy makers to establish a basis for sound policy and practical considerations for the criminal justice system.

(2) Apply for, receive, and disburse grants and other funding from federal or state programs, foundations, corporations and organizations consistent with the purpose of the office;

(3) Establish mechanisms to administer, coordinate, and oversee the distribution of grant funding to support prevention, treatment, reduction, prosecution, or education programs in furtherance of the purpose of the office;

(4) Annually, on or before the first day of February, publish a public report of the data collected provide a copy of the report and analysis to the Governor and to the Joint Committee on Government and Finance: *Provided*, That nothing shall prevent the publication of such data with greater frequency than annually;

(5) Provide recommendations to the Governor and Legislature as to policies and statutory changes in furtherance of the purpose of the office of drug control, programming and data collection;

(6) Enter into agreements and memorandums of understanding with other entities for the purpose of data collection, data analysis, data sharing, research and law enforcement needs in furtherance of the purpose of the office; and

(7) Promulgate rules for legislative approval pursuant to article three, chapter twenty-nine-a of this code which may be necessary to fulfill the functions and responsibilities of the office.

§15-9C-2. Collection of criminal statistics

(a) *Purpose*- In order to timely and effectively address the growing abuse of controlled substances in this state, as well as to develop data-driven policies and responses to the abuse of controlled substances, the Legislature finds that the collection of data as to criminal offenses and the dispositions of prosecutions is important and necessary information.

(b) The prosecuting attorney for each county shall compile and report data, in accordance with subsection (c) of this section, as to the criminal charges, substance, weight, disposition, and other requested information of each criminal matter involving a violation of the uniform controlled substances act contained in chapter sixty-a of this code that has been charged in the prosecuting attorney's county.

(c)(1) On or before July 1, 2017, the Division of Justice and Community Services shall establish a reporting form to allow the county prosecuting attorney to provide, at a minimum, the following information for each criminal charge involving a violation of the controlled substances act contained in chapter sixty-a of this code that has been charged in the prosecuting attorney's county:

(A) Specific statutory violation charged;

(B) The controlled substance(s) involved;

(C) The weight of such controlled substance(s), if known; and

(D) The disposition of such matter, including whether a pre-trial diversion or an alternative sentence was utilized.

(2) A form shall be completed for each criminal matter and shall be submitted to the Office of Drug Control, Programming and Data Collection no later than thirty days after disposition of the criminal matter. The Division of Justice and Community Services shall allow reporting of the required

information by electronic data transfer where feasible, and where not feasible, on reporting forms promulgated by the Division.

(3) The form shall not require, nor shall the prosecuting attorney provide, the name, social security number, or other personally identifiable information about the specific defendant. The form may request information that does not contain the specific name or identity of the defendant if such information is collected for data or research purposes.

§15-9C-3. Collection of overdose statistics

(a) Purpose- (1) Both fatal and nonfatal drug overdoses, caused by abuse and misuse of prescription and illicit drugs, have emerged as a vital health crisis in the State of West Virginia. The day-to-day response to this crisis is dealt with by a number of entities throughout the state, including law enforcement agencies, emergency medical services, hospitals and medical examiners. The Legislature finds that the collection of data as to fatal and nonfatal overdoses and collection in a central repository is an important step to combat and reverse this trend.

(b) The Office of Drug Control, Programming and Data Collection shall implement a program in which a central repository is established and maintained that shall contain information required by this section. In implementing this program, the Office of Drug Control Policy shall consult with affected entities, including law-enforcement agencies, health care providers, emergency response providers, hospitals, and medical examiners.

(c) The program authorized by this section shall be designed to minimize inconvenience to all entities maintaining possession of the relevant information while effectuating the collection and storage of the required information. The Office of Drug Control, Programming and Data Collection shall allow reporting of the required information by electronic data transfer where feasible, and where not feasible, on reporting forms promulgated by the Division of Justice and Community Services.

(d) On or before July 1, 2017, the Division of Justice and Community Services shall establish a form or mechanism whereby the following shall be reported to the Office of Drug Control, Programming and Data Collection:

(1) An emergency medical or law-enforcement response to a suspected or reported overdose, or a response in which an overdose is identified by the responders;

(2) Medical treatment for an overdose;

(3) The dispensation or provision of an opioid antagonist; and

(4) Death attributed to overdose or "drug poisoning".

(e) The following entities shall be required to report information contained in subsection (d) of this section:

(1) Hospitals in this state;

(2) Health care providers;

(3) Medical examiners;

(4) Law enforcement agencies, including state, county and local police departments; and

(5) Emergency response providers.

(f) The Division of Justice and Community Services shall provide by rule the manner and mechanism in which reporting is to take place: *Provided*, That the rule shall require that if an opioid antagonist is administered upon a person by a law enforcement officer or first responder and such person thereafter refuses medical treatment, the officer or first responder shall be required to report the administration of the antagonist.

(g) Any reporting made pursuant to this section shall not require, nor shall the person making the report provide, the name, social security number, or other personally identifiable information about the specific individual involved in the overdose incident. The form may request information that does not contain the specific name or identity of the defendant if such information is collected for data or research purposes.

§15-9C-4. Rulemaking

The Division of Justice and Community Service may promulgate such additional legislative rules to effectuate the purposes of this article in accordance with the provisions of chapter twenty-nine-a of this code.”

And,

On page one, following the enacting clause, by striking out the enacting section, and inserting a new enacting section, to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3 and §15-9C-4; and that said code be amended by adding thereto a new section, designated §60A-4-414, all to read as follows:”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was read a third time.

At the request of Delegate Cowles, and by unanimous consent, further consideration of the bill was postponed until completion of resolutions.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates returned to the Seventh Order of Business for the purpose of considering resolutions.

Resolutions Introduced

Delegates A. Evans, R. Romine, Overington, Hamilton, Ambler, Anderson, Arvon, Atkinson, Baldwin, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Deem, Diserio, Eldridge, Ellington, Espinosa, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Folk, G. Foster, N. Foster, Frich, Gearheart, Hamrick, Hanshaw, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Householder, Howell, Iaquina, Isner, Kelly, Kessinger, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, McGeehan, Miley, C. Miller, R. Miller, Moore, Moye, Mr. Speaker (Mr. Armstead), Nelson, O’Neal, Paynter, Pethel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, C. Romine, Rowan, Rowe, Shott, Sobonya, Sponaugle, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Walters, Ward, Westfall, White, Williams, Wilson and Zatezalo offered the following resolution, which was read by the Clerk as follows:

H. R. 18 – “Memorializing the life of the Honorable Otis Anderson Leggett, dedicated husband, father, grandfather, educator, administrator, statesman and public servant.”

Whereas, Otis A. Leggett was born on September 2, 1919, in Oxford, West Virginia, the youngest of seven sons and two daughters born to the late Columbus N. and Bertha Smith Leggett; and

Whereas, In 1934, Otis married the love of his life, Anerl, and they shared 72 wonderful years together. Otis and Anerl were the parents of one daughter, Cheryl Ann Parsons, the grandparents of Brian D. Parsons, Esquire, and Dr. Ashley Parsons Kahan, and great-grandparents to Fox, Molly and Eli Parsons ; and

Whereas, Otis showed an early interest in education. From traveling four miles to catch the bus to a one room school to ultimately graduating from Glenville State College with a B.A. and West Virginia University with a Master’s Degree, his journey in education was only beginning. He went on to teach in a one room school in Doddridge County and later served as a teacher in schools in Ritchie, Wood and Pleasants counties. As his career progressed, Otis served as principal of McFarland Elementary School, Pleasant Valley Elementary School, Park School and St. Marys Elementary School. He also served as the Superintendent of Ritchie County Schools, ultimately retiring after forty years of faithful service; and

Whereas, In 1986, Otis sought a seat in the West Virginia House of Delegates from Pleasants County. He won that first election and would go on to win every election until his retirement in 2006. During his years in the Legislature, Otis served on various committees including the Committees on Education, Finance, Government Organization, Rules, Agriculture and Natural Resources and Roads and Transportation. He was a champion for his constituents, well respected by his peers and valued for his vast experience in the field of education. As a member of the House of Delegates, Otis Leggett served with distinction and in 2006 received from Governor Joe Manchin the highest honor the Governor can issue for a native West Virginian, the Distinguished West Virginian Award; and

Whereas, Otis was a Life Member of the National Education Association Retired Teachers Association, Past President of the Pleasants County Retired School Employees, and a member of the St. Marys Lions Club, Pleasants County Farm Bureau, NRA, National Principal’s Association, and the Pleasants County Heart Association. He was also a member of the Harrisville City Council; and

Whereas, Otis was a long time member of the St. Marys Methodist Church and he dearly loved his farm “The Summers Place” in Doddridge County. He also loved fishing and began a family tradition of fishing in Canada for more than 50 consecutive years; and

Whereas; Sadly, the Honorable Otis A. Leggett passed away on Monday, January 30, 2017; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby memorializes the life of the Honorable Otis Anderson Leggett, dedicated husband, father, grandfather, educator, administrator, statesman and public servant; and, be it

Further Resolved, That the House of Delegates hereby extends its sincere sympathy at the passing of the Honorable Otis A. Leggett; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a copy of this resolution to the family of the Honorable Otis A. Leggett.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 18) to a committee was dispensed with, and it was taken up for immediate consideration.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 475**), 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: Hicks, Marcum and Maynard.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 18) adopted.

Mr. Speaker (Mr. Armstead), and Delegates Hanshaw, Ambler, Baldwin, Hill, Atkinson, Anderson, Arvon, Barrett, Bates, Blair, Boggs, Brewer, Butler, Byrd, Canestraro, Capito, Caputo, Cooper, Cowles, Criss, Dean, Deem, Diserio, Eldridge, Ellington, Espinosa, A. Evans, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Folk, G. Foster, N. Foster, Frich, Gearheart, Hamilton, Hamrick, Harshbarger, Hartman, Hicks, Higginbotham, Hollen, Hornbuckle, Householder, Howell, Iaquina, Isner, Kelly, Kessinger, Lane, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Martin, Maynard, McGeehan, Miley, C. Miller, R. Miller, Moore, Moye, Nelson, O'Neal, Overington, Paynter, Pethel, Phillips, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Rowe, Shott, Sobonya, Sponaugle, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Walters, Ward, Westfall, White, Williams, Wilson and Zatezalo offered the following resolution, which was read by the Clerk as follows:

H. R. 19 – “Recognizing and honoring the heroic efforts of West Virginia first responders during the state’s unprecedented and historic flooding of June 2016.”

Whereas, On June 23, 2016, thunderstorms brought torrential rain to much of West Virginia, resulting in accumulations of up to 10 inches in less than 24 hours in many areas. According to the National Weather Service, the rainfall qualified as a 1,000-year event for parts of Clay, Fayette, Greenbrier, Kanawha and Nicholas counties and the towns of Alderson, Clendenin, Rainelle, Richwood, Rupert and White Sulphur Springs; and

Whereas, In Kanawha County the Elk River crested at 33.37 feet, rising more than 27 feet in less than 24 hours, marking its highest crest in 125 years of records; and

Whereas, In Greenbrier County, seven inches of rain fell in less than three hours; and

Whereas, In addition to the torrential rain, the storms produced an EF1 tornado in Jackson County; and

Whereas, During that 24-hour period in June 2016, 23 lives were lost, thousands of homes were destroyed or damaged, dozens of roads and bridges collapsed, thousands were left homeless or without the basic necessities of life; and

Whereas, In the wake of the floods, Governor Earl Ray Tomblin declared a state of emergency for 44 of the state’s 55 counties. On June 25, President Barack Obama declared West Virginia a major disaster area; and

Whereas, Governor Earl Ray Tomblin also ordered the deployment of 400 members of the West Virginia National Guard. Search and rescue teams were deployed across the state to assist stranded residents. Numerous swift water and rooftop rescues were conducted. A volunteer firefighter and other residents of White Sulphur Springs used front-end loaders and other heavy machinery to move through debris-laden floodwaters during the overnight of June 23–24 to save 60 people; and

Whereas, In the immediate aftermath of the absolute devastation, destruction of property, and the loss of life caused by the June 23 flooding, the state relied on the rapid response and hard work of its firefighters, emergency medical services teams, police, rescue squads, West Virginia National Guard and emergency management officials. Despite risks to their own safety, these brave men and women entered into the depths of destruction to search for survivors and administer aid to the good citizens of the counties, who were so severely affected by the unprecedented flooding. The unyielding resolve of these men and women in the most desperate of hours served as an inspiration and a point of hope for the citizens of not only the counties and communities who were so adversely and unmercifully affected, but all citizens of West Virginia; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates recognizes and honors the heroic efforts of West Virginia first responders during the state's unprecedented and historic flooding of June 2016; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to representatives of the West Virginia Fire Departments, the West Virginia Volunteer Fire Departments, the Offices of Emergency Management of the County Commissions; the West Virginia County Sheriffs' Association, the West Virginia State Police, the West Virginia Municipal Police Departments, the West Virginia National Guard, and the West Virginia Division of Homeland Security and Emergency Services and the West Virginia Municipal League.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 19) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

Having been postponed in earlier proceedings, Com. Sub. for S. B. 220 was taken up for further consideration.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 476**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Caputo, McGeehan and Pushkin.

Absent and Not Voting: Baldwin and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 220) passed.

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

Com. Sub. for S. B. 220 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-414, relating generally to offenses and penalties under the Uniform Controlled Substances Act; creating the felony offense of delivering controlled substances or counterfeit controlled substances resulting in the death of another person and

providing criminal penalties therefor; creating felony offense of failing to render, seek, or ensure timely medical assistance to another person who has manifested an adverse physical reaction to a controlled substance and who subsequently dies; and providing criminal penalties therefor.

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 third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 477**), 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: Baldwin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 288) passed.

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

S. B. 333, Requiring all DHHR-licensed facilities access WV Controlled Substances Monitoring Program Database; 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. 478**), 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: Baldwin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 333) passed.

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

S. B. 333 – “A Bill to amend and reenact §60A-9-4, §60A-9-5 and §60A-9-5a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-9-9, all relating to the Controlled Substances Monitoring Program database; requiring reporting instances of an overdose or a suspected overdose to the database; setting out elements to be reported; allowing access to the database to deans of the state’s medical schools or their designees for monitoring prescribing practices of prescribing faculty members, prescribers and residents enrolled in a degree program at the school where the dean serves; allowing access to designated physician reviewers for medical provider employers; providing access to a physician reviewer designated by an employer of medical providers for monitoring prescribing practices of physicians, advance practice registered nurses or physician assistants in their employ; providing access to chief medical officers of a hospital or a physician designated by the chief executive officer of a hospital who does not have a chief medical officer for monitoring prescribing practices of prescribers who have admitting privileges to the hospital; providing that information obtained from accessing the West Virginia Controlled Substances Monitoring Program database shall be documented in a patient’s

medical record maintained by a private prescriber or any inpatient facility licensed pursuant to Public Health; allowing the Board of Pharmacy to require that drugs of concern be reported to the database; exempting reporting requirements for drugs of concern from criminal penalties; allowing duly authorized agents of the Office of Health Facility Licensure and Certification to access the database for use in certification, licensure and regulation of health facilities; providing that a failure to report drugs of concern may be considered a violation of the practice act of the prescriber and may result in discipline by the appropriate licensing board; providing for rulemaking; requiring the licensing boards to report to the Board of Pharmacy when notified of unusual prescribing habits of a licensee; and making technical corrections.”

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. 388, Relating to dangerous weapons; 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. 479**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lane, Longstreth, Pyles and Rowe.

Absent and Not Voting: Baldwin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 388) passed.

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

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

Delegates N. Foster, Kelly and Cowles requested to be excused from voting on the passage of S. B. 433 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 Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 480**), and there were—yeas 63, nays 37, absent and not voting none, with the nays being as follows:

Nays: Anderson, Arvon, Barrett, Caputo, Criss, Diserio, Eldridge, A. Evans, E. Evans, Fast, Folk, G. Foster, Frich, Gearheart, Hamrick, Hartman, Householder, Howell, Iaquina, Isner, Kessinger, Love, Martin, Maynard, McGeehan, Miley, R. Miller, Moye, Overington, Paynter, Phillips, Queen, Rodighiero, Sobonya, Thompson, Upson and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 433) passed.

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

Com. Sub. for S. B. 440, Relating to use of Regional Jail and Correctional Facility Authority funds; 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. 481**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 440) passed.

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

Com. Sub. for S. B. 440 – “A Bill to amend and reenact §31-20-10 of the Code of West Virginia, 1931, as amended, relating to mandating that investment of certain Regional Jail and Correctional Facility Authority special funds be with the West Virginia Board of Treasury Investments; and eliminating obsolete language.”

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

At 12:20 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 2:00 p.m.

* * * * *

Afternoon Session

* * * * *

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

Third Reading

-continued-

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 482**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Gearheart and Martin.

Absent and Not Voting: Moore and Paynter.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 444) 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. 444 -"A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-1-22, relating to authorizing the West Virginia Supreme Court of

Appeals to charge fees from subscribers using advanced technology systems pursuant to a schedule of fees published pursuant to administrative order of the Court; establishing the Court Advanced Technology Subscription Fund; requiring one half of all moneys collected from subscribers be credited to the fund and used to pay the costs associated with maintaining and administering the court's advanced technology systems; requiring one half of all moneys collected from subscribers be deposited into the general revenue fund; limiting the imposition of certain subscriber fees pending condition precedent; and prescribing legislative appropriations of the fund."

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 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. 483**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Fast and Sobonya.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 515) passed.

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

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had transferred S. B. 687, on Third reading, House Calendar, to the Special Calendar.

Com. Sub. for S. B. 533, Relating to taxes on wine and intoxicating liquors; on third reading, coming up in regular order, was read a third time.

Delegate Walters requested to be excused from voting on the passage of Com. Sub. for S. B. 533 under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 484**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Fast.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 533) passed.

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

Com. Sub. for S. B. 535, Reorganizing Division of Tourism; 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. 485**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Blair, Folk, McGeehan and Sobonya.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 535) passed.

On motion of Delegates Cowles and Nelson, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 535 – “A Bill to repeal §5B-2-8, §5B-2-8a, §5B-2-9, §5B-2-11, §5B-2-12 and §5B-2-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-1-2 of said code; and to amend said code by adding thereto a new article, designated §5B-2I-1, §5B-2I-2, §5B-2I-3, §5B-2I-4, §5B-2I-5, §5B-2I-6, §5B-2I-7 and §5B-2I-8, all relating to tourism promotion generally; continuing the West Virginia Division of Tourism Office; creating the West Virginia Tourism Act of 2017; creating the position of Executive Director of the West Virginia Tourism Office and setting forth the authority of the executive director; authorizing the Governor to appoint the executive director and set his or her salary; clarifying that the executive director shall serve as Commissioner of Tourism until establishment of the West Virginia Tourism Office; making the position of executive director one of will and pleasure; establishing qualifications for the position of executive director; establishing powers and duties of the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to enter into private-public agreements and to change and collect fees for goods and services it supplies; authorizing the West Virginia Tourism Office to retain services necessary to carry out its duties; establishing criteria for retaining services; authorizing the executive to employ necessary personnel and to contract for professional, technical and consulting services and purchase equipment and supplies; authorizing the executive director, at the consent of the Secretary of Commerce, to compile a list on classified service exempt positions; requiring the West Virginia Tourism Office to publish and disseminate an annual report; directing the West Virginia Tourism office and its director to collaborate with the West Virginia Development Office; authorizing cancellation of contracts and joint venture agreements without further obligation of the state and setting the conditions precedent therefor; continuing the Tourism Promotion Fund in the State Treasury; directing that moneys in the fund be spent solely for tourism promotion; defining terms; exempting unspent moneys in fund from reverting to the General Revenue Fund; eliminating the Tourism Advertising Partnership Program effective July 1, 2017, with exceptions for resolution of outstanding obligations; directing the establishment of a cooperative advertising program within the West Virginia Tourism Office; authorizing the West Virginia Tourism Office to establish a fee schedule for participants in the cooperative advertising program; continuing an independent Tourism Commission within the Department of Commerce; establishing membership of Tourism Commission; requiring that gubernatorial appointments to the board be subject to the advice and consent of the Senate; setting forth qualifications of board members; establishing duties of the commission; and providing that documents, data and other writings related to furnishing assistance to businesses, other than agreements entered into by the West Virginia Tourism Office or West Virginia Development Office which obligate public funds, are exempt from disclosure under the Freedom of Information Act.”

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

S. B. 547, Modifying fees paid to Secretary of State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 486**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Folk, Gearheart, Howell, Marcum, Martin, McGeehan, Paynter, Summers, Thompson, Upson, Walters and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 547) 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. 547 – “A Bill to amend and reenact §59-1-2 and §59-1-2b of the Code of West Virginia, 1931, as amended, all relating to fees to be paid to the Secretary of State; increasing certain fees for corporations; providing that fees remain until legislative rules to approve new fees are approved by Legislature; creating a new fee for expedited service; reducing fees on certain election related services; and creating new fees for certain election services.”

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 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. 487**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 622) 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. 630, Establishing Accessibility and Equity in Public Education Enhancement Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 488**), and there were—yeas 68, nays 32, absent and not voting none, with the nays being as follows:

Nays: Anderson, Baldwin, Barrett, Bates, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hicks, Iaquina, Isner, Kelly, Longstreth, Love, Lovejoy, Lynch, Marcum, R. Miller, Moye, Pethtel, Pushkin, Robinson, Rodighiero, Rohrbach, Sponaugle, Thompson, Wagner 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. 630) passed.

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

On this question, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 67, nays 33, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Marcum, Miley, R. Miller,

Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Sponaugle, Summers, Thompson, Wagner and Williams.

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. 630) 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. 637, Relating to private club operations requirements; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 490**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Isner, Marcum and Thompson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 637) passed.

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

S. B. 686, Exempting facilities governed by DHHR that provide direct patient care; 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. 491**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 686) 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. 686 - "A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-3a, relating 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; exempting such facilities from statewide purchasing requirements and from the otherwise required oversight and review by the Purchasing Division of the Department of Administration; and requiring the Legislative Auditor to audit purchasing made by facilities and report the findings to the Joint Committee on Government and Finance."

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

S. B. 687, Relating generally to coal mining, safety and environmental protection; 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. 492**), and there were—yeas 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Fleischauer, Isner, Moore, Pushkin, Pyles and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 687) passed.

An amendment to the title of the bill, recommended by the Committee on Energy, was reported by the Clerk as follows:

S. B. 687 – “A Bill to amend and reenact §22-3-11, §22-3-13a and §22-3-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-6-24 of said code; to amend and reenact §22-11-7b of said code; to amend and reenact §22A-1-2 and §22A-1-5 of said code; to amend and reenact §22A-2-59 of said code; to amend said code by adding thereto a new section, designated §22A-2A-1001; to amend and reenact §22A-6-3, §22A-6-4 and §22A-6-6 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-5, §22A-7-5a and §22A-7-7 of said code; to amend and reenact §22A-9-1 of said code; to amend and reenact §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4 of said code; to amend said code by adding thereto a new section, designated §22A-11-5, all relating generally to natural resources; providing that moneys be paid from special reclamation water trust fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites; modifying notification requirements for preblast surveys for surface mining operations and certain other blasting activities; removing minimum bond requirements related to certain reclamation work; providing for changes to the method of plugging abandoned gas wells where a coal operator intends to mine through the well; removing certain criteria from evaluation for the narrative water quality standard; authorizing the elimination of the Board of Miner Training, Education and Certification, the Mine Inspectors’ Examining Board, and the Mine Safety Technology Task Force, and the transfer of duties from those boards and task force to the Board of Coal Mine Health and Safety; providing guaranteed term limits for certain board and commission members, providing that an automated external defibrillator unit be required first-aid equipment located in certain areas of an underground coal mine; directing that the Office of Miners’ Health, Safety and Training revise state rules related to diesel equipment operating in underground mines; and requiring rulemaking.”

Whereupon,

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

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

S. B. 687 – “A Bill to amend and reenact §22-3-11, §22-3-13a and §22-3-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-6-24 of said code; to amend and reenact §22-11-7b of said code; to amend and reenact §22A-1-2 and §22A-1-5 of said code; to amend and reenact §22A-2-59 of said code; to amend said code by adding thereto a new section, designated §22A-2A-1001; to amend and reenact §22A-6-3, §22A-6-4 and §22A-6-6 of said code; to amend and reenact §22A-7-2, §22A-7-3, §22A-7-5, §22A-7-5a and §22A-7-7 of said code; to amend and reenact §22A-9-1 of said code; to amend and reenact §22A-11-1, §22A-11-2, §22A-11-3 and §22A-11-4 of said code; to amend said code by adding thereto a new section, designated §22A-11-5, all relating generally to natural resources; providing that moneys be paid from special reclamation water trust fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites; modifying notification requirements for preblast surveys for surface mining operations and certain other blasting activities; removing minimum bond requirements related to certain reclamation work; providing for changes to the method of plugging abandoned gas wells where a coal operator intends to mine through the well; removing certain criteria from evaluation for

the narrative water quality standard; authorizing the elimination of the Board of Miner Training, Education and Certification, the Mine Inspectors' Examining Board, and the Mine Safety Technology Task Force, and the transfer of duties from those boards and task force to the Board of Coal Mine Health and Safety; providing guaranteed term limits for certain board and commission members, providing that an automated external defibrillator unit be required first-aid equipment located in certain areas of an underground coal mine; directing that the Office of Miners' Health, Safety and Training revise state rules related to diesel equipment operating in underground mines; and requiring rulemaking."

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

On this question, the yeas and nays were taken (**Roll No. 493**), and there were—yeas 71, nays 29, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, E. Evans, Ferro, Fleischauer, Fluharty, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Rodighiero, Rowe, Sponaugle and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 687) 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. 691, Relating to off-road vehicles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 494**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 691) passed.

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

S. B. 691 – "A Bill to amend and reenact §17-2A-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §17F-1-9 of said code; and to amend and reenact §20-15-2 of said code, all relating to off-highway vehicles; defining terms; creating digital road map for certain roads and vehicles, including off-highway vehicles; and making technical corrections."

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

S. B. 694, Expiring funds to unappropriated surplus balance in General Revenue fund to Department of Administration; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 495**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 694) passed.

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

On this question, the yeas and nays were taken (**Roll No. 496**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 694) takes effect from its passage.

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

Com. Sub. for S. B. 239, Limiting use of wages by employers and labor organizations for political activities; 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. 497**), and there were—yeas 51, nays 49, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Cowles, Criss, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moye, Paynter, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner, Ward 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. 239) passed.

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

Com. Sub. for S. B. 239 – “A Bill to amend and reenact §3-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-1A-4 of said code; to amend and reenact §21-5-1 of said code; and to amend and reenact §21-5-3, all relating to withholding or diverting an employee’s wages or salary; prohibiting any person from coercing or intimidating any employee into making a political contribution or engaging in any form of political activity; prohibiting employers and any other persons responsible for the disbursement of wages and salaries from withholding or diverting any portion of an employee’s wages or salary for political activities without express, written authorization; providing that the prohibition against withholding or diverting wages for political activities applies to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2017; setting forth requirements for employees to provide written authorization for disbursement of wages and salaries by an employer or other person for political activities; defining the term ‘agency shop fees’; modifying definition of ‘deductions’ to include only those amounts required by law or Court order to be withheld and employer-sponsored or employer-provided plan; modifying the definition of ‘deductions’ to exclude amounts for union or club dues, charities and other withholdings that are not employer-sponsored or employer-provided plans; making it an unfair labor practice under the Labor-Management Relations Act for the Private Sector for a labor organization to use agency shop fees paid by nonmembers for political activities, unless expressly authorized by the individual; removing the requirement that an assignment or order be acknowledged by the party

making the same before a notary public or other official authorized to take acknowledgments; requiring that an assignment or order shall be in writing; and providing that the changes made to the assignment of wages during the 2017 West Virginia Legislature apply to any written or oral contract or agreement entered into, modified, renewed or extended on or after July 1, 2017, and shall not otherwise apply or abrogate a written or oral contract or agreement in effect on or before June 30, 2017.”

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

At 4:58 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:30 p.m.

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Evening Session

* * * * *

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2509, Relating to the practice of telemedicine.

The following Senate amendments were reported by the Clerk:

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

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rule-making.

(a) *Definitions* – For the purposes of this section:

(1) ‘Chronic nonmalignant pain’ means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. ‘Chronic nonmalignant pain’ does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) ‘Physician’ means a person licensed by the West Virginia Board of Medicine to practice allopathic medicine in West Virginia.

(3) ‘Store and forward telemedicine’ means the asynchronous computer-based communication of medical data or images from an originating location to a physician or podiatrist at another site for the purpose of diagnostic or therapeutic assistance.

(4) ‘Telemedicine’ means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between

a physician or podiatrist in one location and a patient in another location, with or without an intervening health care provider.

(5) 'Telemedicine technologies' means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician or podiatrist and a patient.

(b) *Licensure* –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician or podiatrist who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician or podiatrist who is licensed to practice medicine or podiatry in this state, provided that the physician or podiatrist requesting the opinion retains authority and responsibility for the patient's care; and

(B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency or disaster, if no charge is made for the medical assistance.

(c) *Physician-patient or Podiatrist-patient relationship through telemedicine encounter* –

(1) A physician-patient or podiatrist-patient relationship may not be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician or

podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) *Telemedicine practice* – A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care;

(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; ~~and~~

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; ~~and~~

(9) The requirements of subdivisions (1) through (8), inclusive, of this subsection ~~of subsection (d) in this section~~ do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) *Standard of care* –

The practice of medicine or podiatry provided via telemedicine technologies, including the establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire, does not constitute an acceptable standard of care.

(f) *Patient records* –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician or podiatrist and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine or podiatry provided through telemedicine technologies. A physician or podiatrist solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

(g) *Prescribing limitations* –

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors , or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term 'abortion' has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) *Exceptions –*

This article does not prohibit the use of audio-only or text-based communications by a physician or podiatrist who is:

(1) Responding to a call for patients with whom a physician-patient or podiatrist-patient relationship has been established through an in-person encounter by the physician or podiatrist;

(2) Providing cross coverage for a physician or podiatrist who has established a physician-patient or podiatrist-patient relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) *Rulemaking –*

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine and podiatry in this state.

(j) *Preserving traditional physician-patient or podiatrist-patient relationship –*

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient or podiatrist-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12d. Telemedicine practice; requirements; exceptions; definitions; rulemaking.

(a) *Definitions.* – For the purposes of this section:

(1) 'Chronic nonmalignant pain' means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. 'Chronic nonmalignant pain' does not include pain associated with a terminal condition or illness or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition or illness.

(2) 'Physician' means a person licensed by the West Virginia Board of Osteopathic Medicine to practice osteopathic medicine in West Virginia.

(3) 'Store and forward telemedicine' means the asynchronous computer-based communication of medical data or images from an originating location to a physician at another site for the purpose of diagnostic or therapeutic assistance.

(4) 'Telemedicine' means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication or other means of interaction between a physician in one location and a patient in another location, with or without an intervening health care provider.

(5) 'Telemedicine technologies' means technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real-time audio/video conferencing or similar secure video services, remote monitoring or store and forward digital image technology to provide or support health care delivery by replicating the interaction of a traditional in-person encounter between a physician and a patient.

(b) *Licensure* –

(1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.

(2) A physician who practices telemedicine must be licensed as provided in this article.

(3) This section does not apply to:

(A) An informal consultation or second opinion, at the request of a physician who is licensed to practice medicine in this state, provided that the physician requesting the opinion retains authority and responsibility for the patient's care; and

(B) Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance.

(c) *Physician-patient relationship through telemedicine encounter.*

(1) A physician-patient relationship may *not* be established through:

(A) Audio-only communication;

(B) Text-based communications such as e-mail, Internet questionnaires, text-based messaging or other written forms of communication; or

(C) Any combination thereof.

(2) If an existing physician-patient relationship is not present prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient relationship may only be established:

(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient encounter; or

(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient relationship has been established, either through an in-person encounter or in accordance with subdivision (2) of this subsection, the physician may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

(d) *Telemedicine practice* – A physician using telemedicine technologies to practice medicine shall:

(1) Verify the identity and location of the patient;

(2) Provide the patient with confirmation of the identity and qualifications of the physician;

(3) Provide the patient with the physical location and contact information of the physician;

(4) Establish or maintain a physician-patient relationship which conforms to the standard of care;

(5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine is to be rendered;

(6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

(7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; ~~and~~

(8) Create and maintain health care records for the patient which justify the course of treatment and which verify compliance with the requirements of this section; and

(9) The requirements of subdivisions (1) through (7), inclusive, of this subsection ~~of subsection (d) in this section~~ do not apply to the practice of pathology or radiology medicine through store and forward telemedicine.

(e) *Standard of care* –

The practice of medicine provided via telemedicine technologies, including the establishment of a physician-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire does not constitute an acceptable standard of care.

(f) *Patient records* –

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician and the patient, consistent with the laws and legislative rules governing patient health care records. All laws governing the confidentiality of health care information and governing patient access to medical records shall apply to records of practice of medicine provided through telemedicine technologies. A physician solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

(g) *Prescribing limitations* –

(1) A physician who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors, or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.

(2) A physician may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substances Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term 'abortion' has the same meaning ascribed to it in section two, article two-f, chapter sixteen of this code.

(h) *Exceptions* –

This section does not prohibit the use of audio-only or text-based communications by a physician who is:

(1) Responding to a call for patients with whom a physician-patient relationship has been established through an in-person encounter by the physician;

(2) Providing cross coverage for a physician who has established a physician-patient or relationship with the patient through an in-person encounter; or

(3) Providing medical assistance in the event of an emergency situation.

(i) *Rulemaking* –

The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine may propose joint rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement standards for and limitations upon the utilization of telemedicine technologies in the practice of medicine in this state.

(j) *Preservation of the traditional physician-patient relationship.*

Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient relationship, nor is it meant or intended to change in any way the personal

character of the physician-patient relationship. This section does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.”

And,

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

Com. Sub. for H. B. 2509 – “A Bill to amend and reenact §30-3-13a of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-12d of said code, all relating to the practice of telemedicine generally; prohibiting the prescribing of a drug with the intent of causing an abortion; and allowing a physician to prescribe controlled substances on Schedule II of the Uniform Controlled Substances Act in certain circumstances.”

Delegate Cowles moved that the House concur in the in the Senate amendments.

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

The yeas and nays having been ordered, they were taken (**Roll No. 498**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Caputo, Diserio, Fleischauer, Hornbuckle, Pethtel, Pushkin, Robinson and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the House concurred in the Senate amendments.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 499**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Fleischauer, Pushkin, Robinson and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2509) passed.

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

On this question, the yeas and nays were taken (**Roll No. 500**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Brewer, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Hornbuckle, Iaquina, Longstreth, Pethtel, Pushkin, Robinson and Rowe.

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. 2509) takes effect from its passage.

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

A message from the Senate, by

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

H. B. 2628, Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine.

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

On pages eighteen and nineteen, by striking out all of section eleven and inserting in lieu thereof the following:

“§30-14-11. Refusal, suspension or revocation of license; suspension or revocation of certificate of authorization.

~~(a) The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes:~~

(a) The board may refuse to issue a license, suspend or revoke a license, fine a licensee, order restitution or rehabilitative action by a licensee, or order a combination thereof for any one or more of the following causes:

(1) Conviction of a felony, as shown by a certified copy of the record of the trial court: Provided, That if the conviction is for an offense that involves the transfer, delivery or illicit possession of a prescription drug, then the board shall revoke or refuse to issue the license of the convicted physician or physician’s assistant for a period of time until the physician or physician’s assistant demonstrates a record of rehabilitation and that he or she has the integrity, moral character and professional competence to practice in this state;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Violation of any provision of this article regulating the practice of osteopathic physicians and surgeons;

(4) Fraud, misrepresentation or deceit in procuring or attempting to procure admission to practice;

(5) Gross malpractice;

(6) Advertising by means of knowingly false or deceptive statements;

(7) Advertising, practicing or attempting to practice under a name other than one’s own;

(8) Habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs; or

(9) Knowingly failing to report to the board any act of gross misconduct committed by another licensee of the board.

(b) The board shall also have the power to suspend or revoke for cause any certificate of authorization issued by it. It shall have the power to reinstate any certificate of authorization suspended or revoked by it.

(c) An osteopathic physician licensed under this article may not be disciplined for providing expedited partner therapy in accordance with article four-f, chapter sixteen of this code.”

And,

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

H. B. 2628 – “A Bill to amend and reenact §30-3-12 and §30-3-14 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-11 and §30-14-12a of said code, all relating generally to the regulation and licensing of medical professionals; modifying powers and duties of the Board of Medicine and the Board of Osteopathic Medicine with regard to evidence of serious misconduct of individuals subject to the boards’ jurisdictions; authorizing the Board of Medicine to deny or refuse to reissue a license to any person convicted of a felony; authorizing the Board of Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; authorizing the Board of Medicine to revoke a license or other authorization to practice or prescribe or dispense controlled substances for any period of time, including for the life of the licensee; authorizing the Board of Osteopathic Medicine to refuse to issue a license, suspend or revoke a license, fine a licensee, or order restitution or rehabilitative action by a licensee for certain causes; requiring the Board of Osteopathic Medicine to revoke or refuse to reissue the license of a physician or physician’s assistant convicted of a felony involving prescription drugs; authorizing the Board of Osteopathic Medicine to take disciplinary action against a licensee or applicant for licensure who knowingly fails to report any act of gross misconduct committed by another licensee; and requiring the Board of Medicine and the Board of Osteopathic Medicine to report certain credible information received to appropriate authorities.”

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. 501**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2628) passed.

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

Messages from the Executive

The Speaker laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 28, 2017

Veto Message

The Honorable Mitch Carmichael
President, West Virginia Senate
Room 229M, Building 1
State Capitol
Charleston, West Virginia 25305

RE: Enrolled Senate Bill 330

Dear President Carmichael:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 330 due to pending litigation calling into question the constitutionality of this bill's underlying statute and for public policy reasons.

I disapprove this bill because its underlying legislation (SB1 2016 Regular Legislative Session) is currently being challenged as unconstitutional in Kanawha County Circuit Court and the injunctive relief issued by that Court has been appealed to the West Virginia Supreme Court of Appeals. The Attorney General has requested that the Circuit Court issue a final decision by May 1, 2017. A decision by the Supreme Court regarding the current appeal is expected after April 21, 2017. Any amendment to this statute before such time as a Court has finally determined its constitutionality is impudent and contrary to public policy.

For the foregoing reasons, I disapprove and return the bill.

Sincerely,

Jim Justice,
Governor.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that, upon reconsideration the Senate had again passed, notwithstanding the objections of the Governor, and requested the concurrence of the House of Delegates in the same, as to

S. B. 330, Relating to WV Workplace Freedom Act.

On motion of Delegate Cowles, the House of Delegates proceeded to reconsider the bill (S. B. 330), notwithstanding the objections of the Governor.

The Speaker propounded, "Shall the bill pass, notwithstanding the objections of the Governor?"

On this question, the yeas and nays were taken (**Roll No. 502**), and there were—yeas 51, nays 49, absent and not voting none, with the yeas and nays being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Blair, Butler, Capito, Cooper, Cowles, Criss, Deem, Ellington, Espinosa, Fast, G. Foster, N. Foster, Frich, Gearheart, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kelly, Kessinger, Lane, Martin, C. Miller, Moore, Nelson, O'Neal, Overington, Queen, C. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Upton, Wagner, Walters, Westfall, White, Wilson, Zatezalo and Mr. Speaker, Mr. Armstead.

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Dean, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, Maynard, McGeehan, Miley, R. Miller, Moye, Paynter, Pethel, Phillips, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, R. Romine, Rowe, Sponaule, Storch, Thompson, Ward and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 330) passed, notwithstanding the objections of the Governor.

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

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. 2646, Terminating the Women's Commission and discontinue its functions.

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 section, designated §61-8D-4b, to read as follows:

ARTICLE 8D. CHILD ABUSE.

§61-8D-4b. Child neglect by voluntary intoxication; offenses; penalties.

(a) Any person who voluntarily becomes intoxicated by the illegal use of a controlled substance, drug or other intoxicant while engaging in the care, custody and control of a minor under the age of twelve and thereby renders himself or herself incapable of exercising a minimum degree of care to assure the minor's physical safety or health is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a jail for not more than six months.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who voluntarily becomes intoxicated by the illegal use of a controlled substance, drug or other intoxicant while engaging in the care, custody and control of a minor under the age of twelve and thereby renders himself or herself incapable of exercising a minimum degree of care to assure the minor's physical safety or health and who has previously been convicted of a violation of subsection (a) of this section or a law of another state or the federal government with the same essential elements is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year.

(c) Any person who voluntarily becomes intoxicated by the illegal use of a controlled substance, drug or other intoxicant while engaging in the care, custody and control of a minor under the age of twelve and thereby renders himself or herself incapable of exercising a minimum degree of care to assure the minor's physical safety or health and who has two or more convictions for a violation of subsection (a) of this section or a law of another state or the federal government with the same essential elements is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a determinate term of not more than five years."

And,

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

Com. Sub. for H. B. 2646 – “A Bill to repeal §29-20-2, §29-20-3, §29-20-4, §29-20-5 and §29-20-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-20-1 of said code, relating to termination of the Women’s Commission; declaring Women’s Commission terminated and not in existence after June 30, 2018; directing commission to wind up affairs, arrange for disposition of funds, assets, equipment and records, and cease all activities before July 1, 2018; and repealing provisions of code related to Women’s Commission.”

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. 503**), and there were—yeas 61, nays 39, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Capito, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Wagner and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2646) 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. 2767, Authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks.

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 31B. UNIFORM LIMITED LIABILITY COMPANY ACT.

ARTICLE 1. GENERAL PROVISIONS.

§31B-1-111. Service of process.

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

(b) If a limited liability company or foreign limited liability company fails to appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable

diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice or demand may be served.

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

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

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

CHAPTER 31D. WEST VIRGINIA BUSINESS CORPORATION ACT.

ARTICLE 5. OFFICE AND AGENT.

§31D-5-504. Service on corporation.

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

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

(1) The date the corporation receives the mail;

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

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

(c) In addition to the methods of service on a corporation provided in subsections (a) and (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf of each corporation created pursuant to the provisions of this chapter. The Secretary of State has the authority to accept service of notice and process on behalf of each corporation and is an agent of the corporation upon whom service of notice and process may be made in this state for and upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-fact is necessary. Service of any process, notice or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State the original process, notice or demand and two copies of the process, notice or demand for each defendant, along with the fee required by section two, article one, chapter fifty-nine of this code: *Provided*, That with regard to a class action suit in which all defendants are to be served with the same process, notice or demand, service may be made by filing with the Secretary of State the original process, notice or demand and one copy for each named defendant. Immediately after being served with or accepting any process or notice, the Secretary of State shall: (1) File in his or her office a copy of the process or notice, endorsed as of the time of service or acceptance; (2) transmit one copy of the process or notice by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, to: (A) The corporation's registered agent; or (B) if there is no registered agent, to the individual whose name and address was last given to the Secretary of State's office as the person to whom notice and process are to be sent and if no person has been named, to the principal office of the corporation as that address was last given to the Secretary of State's office. If no address is available on record with the Secretary of State, then to the address provided on the original process, notice or demand, if available; and (3) transmit the original process, notice or demand to the clerk's office of the court from which the process, notice or demand was issued. Service or acceptance of process or notice is sufficient if return receipt is signed by an agent or employee of the corporation, or the registered or certified mail sent by the Secretary of State is refused by the addressee and the registered or certified mail is returned to the Secretary of State, or to his or her office, showing the stamp of the United States ~~postal service~~ Postal Service that delivery has been refused, and the return receipt or registered or certified mail is received by the Secretary of State by a means which may include electronic issuance and acceptance of electronic return receipts. After receiving verification from the United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return the refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation

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

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

CHAPTER 31E. WEST VIRGINIA NONPROFIT CORPORATION ACT.

ARTICLE 5. OFFICE AND AGENT.

§31E-5-504. Service on corporation.

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

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

(1) The date the corporation receives the mail;

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

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

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

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

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

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.

§47-9-4. Secretary of State constituted attorney-in-fact for all limited partnerships; manner of acceptance or service of notice and process upon Secretary of State; what constitutes conducting affairs or doing or transacting business in this state for purposes of this section.

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

address is available on record with the Secretary of State then to the address provided on the original process or process, if available. No process or notice shall be served on the Secretary of State or accepted by him less than ten days before the return day thereof. Such limited partnership shall pay the annual fee prescribed by article twelve, chapter eleven of this code for the services of the Secretary of State as its attorney-in-fact.

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

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

manufacture or sale, offer of sale or supply of such defective product shall be of the same legal force and validity as process duly served on such limited partnership in this state.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 3. WRITS, PROCESS AND ORDER OF PUBLICATION.

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

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

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

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

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

(d) Service of process upon a nonresident defendant shall be made by leaving the original and two copies of both the summons and complaint, together with the bond certificate of the clerk, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and the service shall be sufficient upon the nonresident defendant or, if a natural person, his or her administrator, administratrix, executor or executrix: *Provided*, That notice of service and a copy of the summons and complaint shall be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the nonresident defendant. After receiving verification from the

United States ~~postal service~~ Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States ~~postal service~~ Postal Service the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the process, notice or demand was issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. The court may order any reasonable continuances to afford the defendant opportunity to defend the action.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The engaging by a nonresident, or by his or her duly authorized agent, in any one or more of the acts specified in subdivisions (1) through (7) of this subsection shall be deemed equivalent to an appointment by such nonresident of the Secretary of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any circuit court in this state, including an action or proceeding brought by a nonresident plaintiff or plaintiffs, for a cause of action arising from or growing out of such act or acts, and the engaging in such act or acts shall be a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though such nonresident were personally served with a summons and complaint within this state:

(1) Transacting any business in this state;

(2) Contracting to supply services or things in this state;

(3) Causing tortious injury by an act or omission in this state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any person who is:

(1) Not a resident of this state; or

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

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

(A) Committed in this state; or

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

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

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

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

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

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

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

(2) If the respondent is alleged to have committed conduct specified in subsection (b) of this section, this shall be considered equivalent to an appointment by such nonresident of the Secretary

of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any court in this state, for a cause of action arising from or growing out of such conduct, and the engaging in such conduct is a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, is of the same legal force and validity as though such nonresident were personally served within this state.

(A) Such service shall be made by leaving two copies of both the petition and order, with the Secretary of State, or in his or her office, and such service shall be sufficient upon such nonresident: *Provided*, That notice of such service and a copy of the petition and order shall forthwith be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the respondent at his or her nonresident address and the respondent's return receipt signed by himself or herself or his or her duly authorized agent or the registered or certified mail so sent by the Secretary of State which is refused by the addressee and which registered or certified mail is returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused. After receiving verification from the United States Postal Service that acceptance of the notice, petition and order has been signed, the Secretary of State shall notify the clerk's office of the court from which the petition and order were issued by a means which may include electronic notification. If the notice, petition and order were refused or undeliverable by the United States Postal Service, the Secretary of State shall ~~return refused or undeliverable mail to the clerk's office of the court from which the petition and order were issued~~ create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. If any respondent served with a petition and order fails to appear and defend at the time and place set forth in the order, judgment may be rendered against him or her at any time thereafter. The court may order such continuances as may be reasonable to afford the respondent an opportunity to defend the action or proceeding.

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

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

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

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

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

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

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

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

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

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

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

defendant, or cause the defendant to be reimbursed, the necessary expense incurred in the defense of the action in this state. Upon the issue of a summons the clerk will certify thereon that the bond has been given and approved.

(e) Service of process upon a nonresident defendant shall be made by leaving the original and two copies of both the summons and complaint, together with the bond certificate of the clerk, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and said service shall be sufficient upon the nonresident defendant or, if a natural person, his or her administrator, administratrix, executor or executrix: *Provided*, That notice of service and a copy of the summons and complaint shall be sent by registered or certified mail, return receipt requested, by the Secretary of State to the nonresident defendant. The return receipt signed by the defendant or his or her duly authorized agent shall be attached to the original summons and complaint and filed in the office of the clerk of the court from which the process is issued. In the event the registered or certified mail sent by the Secretary of State is refused or unclaimed by the addressee or if the addressee has moved without any forwarding address, the registered or certified mail returned to the Secretary of State, or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused or not claimed or that the addressee has moved without any forwarding address, ~~shall be appended to the original summons and complaint and filed in the clerk's office of the court from which process issued~~ the Secretary of State shall create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action.

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

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

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

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

or attempts to secure, or with respect to the property of any person other than a defendant whose custody or appearance the bail bond enforcer secures or attempts to secure;

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

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

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

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

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

And,

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

Com. Sub. for H. B. 2767 – "A Bill to amend and reenact §31B-1-111 of the Code of West Virginia, 1931, as amended; to amend and reenact §31D-5-504 of said code; to amend and reenact §31E-5-504 of said code; to amend and reenact §47-9-4 of said code; and to amend and reenact §56-3-31, §56-3-33, §56-3-33a and §56-3-34 of said code, all relating to authorizing the Secretary of State to transmit electronic versions of undeliverable mail to the circuit clerks; requiring an accurate duplicate of the original; and permitting disposal or returned or undeliverable mail; and providing for written notice."

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. 504**), and there were—yeas 100, nays none, absent and not voting none.

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. 2767) 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 a title amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3048, Relating to collection of Tier II fees for chemical inventories.

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

Com. Sub. for H. B. 3048 – “A Bill to amend and reenact §15-5A-5 of the Code of West Virginia, 1931, as amended, relating to increasing the cap for Tier II fees for chemical inventories from a maximum of \$100 annually to \$2,500 annually.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 93, nays 7, absent and not voting none, with the nays being as follows:

Nays: Folk, Gearheart, Marcum, McGeehan, Paynter, Upson and Wagner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3048) passed.

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

A message from the Senate, by

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

S. B. 28, Creating new system for certain contiguous counties to establish regional recreation authorities.

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

S. B. 28 – “A Bill to amend and reenact §20-7-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10 and §20-14A-11; and to amend and reenact §20-15-1, §20-15-2, §20-15-3, §20-15-4 and §20-15-5 of said code, all relating to establishing regional recreation authorities and areas; establishing trails for off-highway recreational vehicle use; providing for reimbursement by authority for natural resources police officers; authorizing creation of regional recreation authority as joint development entity formed by two or more contiguous counties; setting forth findings and definitions; establishing powers and composition of governing board; providing for financial review and oversight of public funds; prohibiting certain conduct in regional recreation area; establishing requirements for bidding and purchasing; prohibiting conflicts of interest; limiting liability; clarifying duties and responsibilities of participants to landowners and lessors in the regional recreation area; and establishing criminal penalties and civil remedies.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Hicks, Marcum, Maynard, R. Miller, Paynter, Phillips, Rodighiero, Shott and Thompson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 28) 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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 172, Eliminating salary for Water Development Authority board members.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Criss, Atkinson and Williams.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 221, Relating to composition of PEIA Finance Board.

Delegate Cowles moved the House of Delegates recede from its amendment.

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

The yeas and nays having been ordered, they were taken (**Roll No. 507**), and there were—yeas 51, nays 49, absent and not voting none, with the nays being as follows:

Nays: Anderson, Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Frich, Hamilton, Hartman, Hornbuckle, Iaquinta, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner, Ward and Williams.

So, a majority of the members present and voting having voted in the affirmative, the motion to recede prevailed.

Delegate Hicks moved, that the vote on the motion to recede be reconsidered.

On this question, the yeas and nays were demanded which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 508**), and there were—yeas 48, nays 52, absent and not voting none, with the yeas being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner, Ward, Williams and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the motion to reconsider failed.

Speaker Pro Tempore Overington in the Chair

Delegates Moye, Eldridge, Frich, Pushkin, Westfall, Thompson, Wagner, R. Miller, Anderson, Zatezalo, E. Evans, Pethtel, Ferro, Iaquina, Pyles, Hollen, Storch, Walters, Ambler, Householder, Nelson, Sypolt, N. Foster, Martin, Arvon, Rowan, Dean, A. Evans, W. Romine, Hamilton, McGeehan and Lynch, Gearheart, Byrd and Mr. Speaker, Mr. Armstead, requested to be excused from voting on the passage of Com. Sub. for S. B. 221 under the provisions of House Rule 49.

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

Mr. Speaker, Mr. Armstead, in the Chair

Delegate Sobonya requested to be excused from voting on the passage of Com. Sub. for S. B. 221 under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 509**), and there were—yeas 52, nays 48, absent and not voting none, with the nays being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Criss, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lewis, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Queen, Robinson, Rodighiero, Rohrbach, Rowe, Sponaugle, Storch, Thompson, Wagner, Ward 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. 221) 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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

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

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hanshaw, Zatezalo and Isner.

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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 224, Repealing requirement for employer's bond for wages and benefits.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hanshaw, G. Foster and Fleischauer.

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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 419, Creating special revenue fund sources for Division of Labor to meet statutory obligations.

On motion of Delegate Cowles, the House of Delegates receded from its amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Fast, Gearheart, Martin and Paynter.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 419) 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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 554, Relating to false swearing in legislative proceeding.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Capito, Lane and Fleischauer.

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

Third Reading

-continued-

Com. Sub. for S. B. 76, Creating WV Second Chance for Employment Act; on third reading, with right to amend, was reported by the Clerk.

An amendment to the bill, recommended by the Committee on the Judiciary, was reported by the Clerk.

Whereupon,

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

Delegates Shott and Pushkin then moved to amend the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new article, designated §61-11B-1; §61-11B-2, §61-11B-3 and §61-11B-4, all to read as follows:

ARTICLE 11B. CRIMINAL OFFENSE REDUCTION

§61-11B-1. Legislative Intent

It is the intent of the Legislature to establish a procedure to provide for the reduction of certain criminal offenses after imposition of penalties, and demonstration of reform and subsequent adherence to law for an extended period of time. In enacting this article, it is also the Legislature’s intent to improve employment opportunities for reformed, law-abiding persons, while still providing for public notice of prior convictions. In establishing the provisions herein, it is the Legislature’s intent that the petitioner seeking reduction demonstrate adherence and conformity to law, and has exhibited behavior reflective of being a productive member of the community.

§61-11B-2. Definitions

(a) As used in this article, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) ‘Criminal offense reduction’ means a reduction of a qualifying felony offense to a misdemeanor offense pursuant to this article.

(2) ‘Drug-related criminal offense’ means a conviction in which the Court has made an express finding that the offense directly or indirectly related to the abuse of, or in furtherance of an addiction for, a controlled substance in violation of law.

(3) 'Excluded offense' means:

(A) An offense which involves the infliction of serious physical injury;

(B) A sexual offense, including, but not limited to, a violation of the felony provisions of article eight-b, eight-c, and eight-d of this chapter;

(C) An offense which involved the use or exhibition of a deadly weapon or dangerous instrument;

(D) A felony violation of the provisions of section nine, article two of this chapter;

(E) A felony violation of the provisions of section twenty-eight, article two of this chapter

(F) A felony violation of article four, chapter seventeen-b of this code; or

(G) A felony, the facts and circumstances of which the Court finds to be inconsistent with the purposes of this article.

(4) 'Non-violent drug-related felony offense' means a conviction in the State of West Virginia for a violation of a provision of chapter sixty-a, or a drug-related criminal offense, that is felonious in nature, and in which the court makes an express finding that: (i) the underlying offense did not involve violence or potential violence to another person or the public, and (ii) is not an excluded offense as defined in subdivision (2) of this section.

(5) 'Petitioner' means a person who has filed a petition seeking a criminal offense reduction under the provisions of this article.

(6) 'Qualifying felony offense' means a conviction for non-violent drug-related felony offense that is also not an excluded offense.

(7) 'Requisite time period' means ten years after completion of any sentence or period of supervision or probation, whichever is later, during which time there has been no commission and conviction of violation of law by the petitioner.

§61-11B-3. Criminal Offense Reduction

(a) Subject to the limitations and procedures set forth in this article, a person convicted of a qualifying felony offense may seek a criminal offense reduction by petition to the circuit court. If granted, the person's felony offense shall be reduced to a misdemeanor and shall be designated on all records relating to the offense as a 'reduced misdemeanor.' The petitioner's criminal record shall also reflect that he or she be granted legal status as is associated with being convicted of a misdemeanor, and the person shall not be deemed as being convicted of a felony for any legal purpose or restriction.

(b) Notwithstanding any provision of law to the contrary, the reduced misdemeanor provided for under this article may not be expunged as part of this petition or by subsequent legal proceeding or petition.

(c) There shall be no entitlement to a criminal offense reduction and the granting of the petition shall remain in the discretion of the circuit court.

§61-11B-4. Petition for reduction.

(a) A person seeking a criminal offense reduction under this article shall file with the circuit court a petition, in a form and manner set forth by the West Virginia Supreme Court of Appeals.

(b) Any person filing a petition pursuant to the provisions of this article shall pay the filing fee set by the provisions of subdivision (1), subsection (a), section eleven, article one, chapter fifty-nine of this code: *Provided*, That in addition to the fee required by the provisions of this subsection a petitioner shall pay a fee of \$100 which shall be deposited into a non-appropriated special revenue account within the State Treasurer's office to be known as the West Virginia State Police Criminal History Account, said fee to be used to offset costs to the State Police for actions to facilitate the operation of this article.

(c) Each petition for criminal offense reduction pursuant to this section shall be verified under oath and include the following information:

(1) Petitioner's current name and all other legal names or aliases by which petitioner has been known at any time;

(2) All of petitioner's addresses from the date of the offense or alleged offense in connection with which an criminal offense reduction order is sought to date of the petition;

(3) Petitioner's date of birth and social security number;

(4) Petitioner's date of arrest, the court of jurisdiction and criminal complaint, indictment, summons or case number;

(5) The offense or offenses in which petitioner was charged and of which petitioner was convicted, along with the statutory citations therefor;

(6) The names of any victim or victims, or where there are no identifiable victims such shall be stated;

(7) Whether there is any current order for restitution, protection, restraining order or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for restitution, protection or restraining order prohibiting the petitioner from contacting the victim. If there is such a current order, petitioner shall attach a copy of that order to his or her petition;

(8) The court's disposition of the matter and punishment imposed;

(9) The reasons a criminal offense reduction is sought, such as, but not limited to, employment or licensure purposes, and why it should be granted;

(10) The date upon which he or she completed any sentence or period of supervision or probation;

(11) An express averment by the petitioner that he or she has neither committed nor been convicted of a violation of law;

(12) The action the petitioner has taken since the time of the offenses toward personal rehabilitation, including treatment, work or other personal history that demonstrates rehabilitation;

(13) Whether petitioner has ever been granted criminal offense reduction, expungement or similar

relief regarding a criminal conviction by any court in this state, any other state or by any federal court; and

(14) Any supporting documents, sworn statements, affidavits or other information supporting the petition to reduce criminal offense.

(d) A copy of the petition, with any supporting documentation, shall be served by petitioner pursuant to the West Virginia Rules of Civil Procedure upon the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the circuit court which disposed of the petitioner's criminal charge; the superintendent or warden of any institution in which the petitioner was confined; and all other state and local government agencies whose records would be affected by the proposed criminal offense reduction.

(e) The prosecuting attorney office that had jurisdiction over the offense or offenses for which reduction is sought shall serve by first class mail the petition for criminal offense reduction, accompanying documentation and any proposed criminal offense reduction order to any identified victims.

(f) Upon receipt of a petition for criminal offense reduction, the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the superintendent or warden of any institution in which the petitioner was confined; the circuit court of conviction, if the petition is filed in another circuit; any state and local government agencies the records of which would be affected by the proposed criminal offense reduction and any other interested individual or agency that desires to oppose the criminal offense reduction shall, within thirty days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for criminal offense reduction. A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with the West Virginia Rules of Civil Procedure. The petitioner may file a reply no later than fifteen days after service of any notice of opposition to the petition for criminal offense reduction.

(g) The burden of proof shall be on the petitioner to prove by clear and convincing evidence to the Court that:

(1) The conviction or convictions for which criminal offense reduction is sought are qualifying offenses and the only convictions against petitioner;

(2) That the requisite time period has passed since the conviction or convictions or end of the completion of any sentence of incarceration or probation;

(3) That the petitioner has neither committed nor been convicted of a violation of law in the preceding ten years;

(4) That petitioner has no criminal charges pending against him or her;

(5) That the criminal offense reduction is consistent with the public welfare;

(6) That petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and has remained law-abiding; and

(7) Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for criminal offense reduction.

(h) Within one hundred eighty days of the filing of a petition for criminal offense reduction the circuit court shall:

(1) Summarily grant the petition;

(2) Set the matter for hearing; or

(3) Summarily deny the petition if the court determines that the petition is insufficient or, based upon supporting documentation and sworn statements filed in opposition to the petition, the court determines that the petitioner, as a matter of law, is not entitled to reduction.

(i) If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter the court deems proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for criminal offense reduction with appropriate findings of fact and conclusions of law.

(j) If the court grants the petition for criminal offense reduction, it shall order any records in the custody of the court, and of any other agency or official, including law-enforcement records, to reflect reduction of the felony offense to a reduced misdemeanor. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or conviction that is ordered to reflect the criminal offense reduction in its records shall certify to the court within sixty days of the entry of the criminal offense reduction order that the required reduction has been completed. (k) Upon granting of criminal offense reduction, the person whose felony offense has been reduced under the provisions of this article shall not have to disclose the fact that he or she had a felony conviction: *Provided*, That upon inquiry by a prospective employer or on an application for employment, credit or other type of application, he or she shall disclose the existence of the reduced misdemeanor and acknowledgement of prior conviction if asked about prior convictions or crimes."

The amendment offered by Delegates Shott and Pushkin was rejected.

The bill was read a third time.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading.

On motion of Delegate Shott, the 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 everything thereafter, and inserting in lieu thereof the following:

"That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new article, designated §61-11B-1; §61-11B-2, §61-11B-3 and §61-11B-4, all to read as follows:

ARTICLE 11B. CRIMINAL OFFENSE REDUCTION

§61-11B-1. Legislative Intent

(1) It is the intent of the Legislature to establish a program that provides for a reduction of certain criminal offenses after imposition of penalties, and demonstration of reform and adherence to law for an extended period thereafter.

(2) It is also the intent of the Legislature to allow for public notice of prior transgressions without further penalty or diminution of employment opportunities.

§61-11B-2. Definitions

(a) As used in this article, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) 'Criminal offense reduction' means a reduction of a qualifying felony offense to a misdemeanor offense pursuant to this article.

(2) 'Excluded Offense' means:

(A) a conviction involving:

(i) The infliction of serious physical injury;

(ii) Involving a sexual offense, including specifically the provisions of article eight-b, eight-c, and eight-d of this chapter;

(iii) Involving the use or exhibition of a deadly weapon or dangerous instrument;

(iv) Involving a battery, assault or other provision of section nine, article two of this chapter;

(v) Involving a domestic battery, domestic assault, or other provisions of section twenty-eight, article two of this chapter;

(vi) A conviction for driving under the influence of alcohol, controlled substances or a conviction for a violation of section three, article four, chapter seventeen-b of this code or section nineteen, article eight of this chapter, or

(B) Any that the Court may so find based upon the facts and circumstances of the offense giving rise to the felony conviction involved in the petition.

(3) 'Non-violent felony' means a conviction in the State of West Virginia for a violation of state law that is felonious in nature, and in which the court makes an express finding that the underlying offense giving rise to the petition is not (i) an excluded offense as defined in subdivision (2) of this article, and (ii) did not involve violence or potential violence to another person or the public.

(4) 'Petitioner' means a person who has filed a petition seeking a criminal offense reduction under the provisions of this article.

(5) 'Qualifying felony offense' means: a conviction for non-violent felony offense that is also not an excluded offense.

(6) 'Requisite time period' means (1) ten years after completion of any sentence or period of supervision or probation, whichever is longer; and (2) during which time there has been no commission and conviction of violation of law by the petitioner.

§61-11B-3. Criminal Offense Reduction

(a) Subject to the limitations and procedures set forth in this article, a person convicted of a non-violent felony offense may seek a criminal offense reduction by petition to the circuit court. If granted, the person's felony offense shall be reduced to a misdemeanor and shall be designated on all records relating to the offense as a reduced misdemeanor. The person's criminal record shall also reflect that the person be granted legal status associated with being convicted of a misdemeanor, and the person shall not be deemed as being convicted of a felony for any legal purpose or restriction.

(b) Notwithstanding any provision of law to the contrary, the reduced misdemeanor provided for under this article may not be expunged as part of this petition or by subsequent legal proceeding or petition.

(c) There shall be no entitlement to a criminal offense reduction and the granting of the petition shall remain in the discretion of the circuit court.

§61-11B-4. Petition for reduction.

(a) A person seeking a criminal offense reduction under this article shall file with the circuit court a petition, in a form and manner set forth by the West Virginia Supreme Court of Appeals.

(b) The clerk of the Circuit Court shall charge and collect a filing fee in advance the same fee as is charged for instituting a civil action pursuant to subdivision (1), subsection (a), section eleven, article one, chapter fifty-nine of this code: *Provided*, That \$100 of such filing fee shall go to the West Virginia State Police to assist in the administration and review of records required under this article.

(c) Each petition for criminal offense reduction pursuant to this section shall be verified under oath and include the following information:

(1) Petitioner's current name and all other legal names or aliases by which petitioner has been known at any time;

(2) All of petitioner's addresses from the date of the offense or alleged offense in connection with which an criminal offense reduction order is sought to date of the petition;

(3) Petitioner's date of birth and social security number;

(4) Petitioner's date of arrest, the court of jurisdiction and criminal complaint, indictment, summons or case number;

(5) The statute or statutes and offense or offenses for which petitioner was charged and of which petitioner was convicted;

(6) The names of any victim or victims, or that there were no identifiable victims;

(7) Whether there is any current order for restitution, protection, restraining order or other no contact order prohibiting the petitioner from contacting the victims or whether there has ever been a prior order for restitution, protection or restraining order prohibiting the petitioner from contacting the victim. If there is such a current order, petitioner shall attach a copy of that order to his or her petition;

(8) The court's disposition of the matter and punishment imposed, if any;

(9) Why a criminal offense reduction is sought, such as, but not limited to, employment or licensure purposes, and why it should be granted;

(10) The steps the petitioner has taken since the time of the offenses toward personal rehabilitation, including treatment, work or other personal history that demonstrates rehabilitation;

(11) Whether petitioner has ever been granted criminal offense reduction, expungement or similar relief regarding a criminal conviction by any court in this state, any other state or by any federal court; and

(12) Any supporting documents, sworn statements, affidavits or other information supporting the petition to reduce criminal offense

(d) A copy of the petition, with any supporting documentation, shall be served by petitioner pursuant to the rules of the trial court upon the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the circuit court which disposed of the petitioner's criminal charge; the superintendent or warden of any institution in which the petitioner was confined; and all other state and local government agencies whose records would be affected by the proposed criminal offense reduction.

(e) The prosecutorial office that had jurisdiction over the offense or offenses for which reduction is sought shall serve by first class mail the petition for criminal offense reduction, accompanying documentation and any proposed criminal offense reduction order to any identified victims.

(f) Upon receipt of a petition for criminal offense reduction, the Superintendent of the State Police; the prosecuting attorney of the county of conviction; the chief of police or other executive head of the municipal police department wherein the offense was committed; the chief law-enforcement officer of any other law-enforcement agency which participated in the arrest of the petitioner; the superintendent or warden of any institution in which the petitioner was confined; the circuit court which disposed of the petitioner's criminal charge; all other state and local government agencies whose records would be affected by the proposed criminal offense reduction and any other interested individual or agency that desires to oppose the criminal offense reduction shall, within thirty days of receipt of the petition, file a notice of opposition with the court with supporting documentation and sworn statements setting forth the reasons for resisting the petition for criminal offense reduction. A copy of any notice of opposition with supporting documentation and sworn statements shall be served upon the petitioner in accordance with trial court rules. The petitioner may file a reply no later than fifteen days after service of any notice of opposition to the petition for criminal offense reduction.

(g) The burden of proof shall be on the petitioner to prove by clear and convincing evidence that:

(1) The conviction or convictions for which criminal offense reduction is sought are qualifying offenses and the only convictions against petitioner;

(2) That the requisite time period has passed since the conviction or convictions or end of the completion of any sentence of incarceration or probation;

(3) Petitioner has no criminal charges pending against him or her;

(4) The criminal offense reduction is consistent with the public welfare;

(5) Petitioner has, by his or her behavior since the conviction or convictions, evidenced that he or she has been rehabilitated and is law-abiding; and

(6) Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for criminal offense reduction.

(h) Within ninety days of the filing of a petition for criminal offense reduction the circuit court shall:

(1) Summarily grant the petition;

(2) Set the matter for hearing; or

(3) Summarily deny the petition if the court determines that the petition is insufficient or, based upon supporting documentation and sworn statements filed in opposition to the petition, the court determines that the petitioner, as a matter of law, is not entitled to reduction.

(i) If the court sets the matter for hearing, all interested parties who have filed a notice of opposition shall be notified. At the hearing, the court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with any law-enforcement authority, the institution of confinement, if any, and parole authority or other agency which was in any way involved with the petitioner's arrest, conviction, sentence and post-conviction supervision, including any record of arrest or conviction in any other state or federal court. The court may hear testimony of witnesses and any other matter the court deems proper and relevant to its determination regarding the petition. The court shall enter an order reflecting its ruling on the petition for criminal offense reduction with appropriate findings of fact and conclusions of law.

(j) If the court grants the petition for criminal offense reduction, it shall order any records in the custody of the court, and of any other agency or official, including law-enforcement records, to reflect reduction of the felony offense to a reduced misdemeanor. Every agency with records relating to the arrest, charge or other matters arising out of the arrest or conviction that is ordered to reflect the criminal offense reduction in its records shall certify to the court within sixty days of the entry of the criminal offense reduction order that the required reduction has been completed.

(k) Upon granting of criminal offense reduction, the person whose felony offense has been reduced under the provisions of this article shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application that he or she has a felony conviction."

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

The yeas and nays having been ordered, they were taken (**Roll No. 511**), and there were—yeas 74, nays 25, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Dean, Diserio, Ferro, Fleischauer, Fluharty, Hartman, Hill, Hornbuckle, Iauinta, Longstreth, Love, Lynch, McGeehan, Miley, Moye, Pethtel, Pyles, Sponaugle and Williams.

Absent and Not Voting: Deem.

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

The question now being on the passage of the bill, the yeas and nays were taken (**Roll No. 512**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Cowles, G. Foster, Frich and Gearheart.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 76) passed.

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

Com. Sub. for S. B. 76 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-11B-1; §61-11B-2, §61-11B-3 and §61-11B-4, all relating to establishment of a criminal offense reduction program; setting forth legislative intent; setting forth definitions; providing for persons convicted of certain criminal felony offenses to petition for reduction to a misdemeanor offense; setting forth limitations; providing for reduced offense to be reflected on criminal records; expressly providing that reduction of felony offense means person shall not be deemed as being convicted of a felony for any legal purpose or restriction; clarifying that reduced misdemeanor offenses may not be expunged; clarifying that criminal offense reduction is in the discretion of the circuit court; establishing procedures for petition to the court; requiring payment of a filing fee; directing certain moneys to State Police from filing fee; setting forth information to be included on the petition; providing for notification of petition to certain persons; requiring prosecuting attorney to contact identified victims; providing for notice of opposition to the petition by certain persons; establishing burden of proof by petitioner; providing for a hearing and setting forth procedures; providing for entry of an order by the court; authorizing court to enter an order directing certain records to reflect reduction of a felony offense to a reduced misdemeanor; requiring certification of compliance to the court; and providing for disclosure requirements."

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. 27, Relating to microprocessor permit, being in possession of the Clerk, was taken up for further consideration.

On motion of Delegate Cowles, the House of Delegates then reconsidered the vote on the title amendment.

On motion of Delegate Ellington, the title amendment previously adopted was withdrawn.

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

Com. Sub. for S. B. 27 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-35-5, relating to a microprocessor; establishing permit requirements; establishing permit limitations; clarifying types of microprocessor kitchens; requiring percentage from garden or farm; requiring recordkeeping; requiring labeling; setting forth labeling requirements; clarifying foods requiring permit; exempting certain foods; setting forth permit inspections; establishing fees; allowing suspension of products; permitting recalls; setting forth production prohibitions and limiting sales."

Com. Sub. for S. B. 630, Establishing Accessibility and Equity in Public Education Enhancement Act, being in possession of the Clerk, was taken up for further consideration.

On motion of Delegates Espinosa and Ellington, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 630 – “A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, 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 relating to public education accessibility and equity; relating to the secondary schools athletic commission; participation by home schooled students in extracurricular activities; establishing the Accessibility and Equity in Public Education Enhancement Act; setting forth legislative findings and purpose; defining terms; allowing a county board or a multicounty consortium to 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; allowing the county board or multicounty consortium after adopting the policy to contract with virtual school providers; delaying participation of eligible students in grades kindergarten through five until after the program has been in operation for one full school year; requiring eligible students to be counted in the net enrollment of the school district for the purposes of calculating and receiving state aid, be subject to the same state assessment requirements as other students in the school district and receive a diploma upon completing the same coursework required of regular public school students in the district; exempting, to a limited extent, certain students, parents and school districts from certain laws and state board policies that pertain to requiring the student to be in a school building receiving instruction for any set period of time; providing that a participating eligible student be considered to be attending a certain school; allowing the eligible student to participate in any cocurricular and extracurricular activities of the school under the same participation requirements imposed on traditional students attending the school; exempting a county board from certain provisions of law or state board rule to the extent any conflict with the delivery of the program; exempting a county board from certain online course restrictions; requiring coursework offered through a program be aligned to certain academic standards; requiring the assessment results of a student be included in the assessment results of the school and the school district in which the student is considered to be enrolled for purposes of accountability; and requiring report to the Legislative Oversight Commission on Education Accountability on all aspects of the program.”

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

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

Committee Reports

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of April, 2017, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

S. B. 5, Disqualifying CDL for DUI conviction in certain cases.

S. B. 206, Expanding definition of “kidnapping” to include taking or gaining custody of, confining or concealing person by force.

S. B. 214, Adopting Uniform Electronic Legal Material Act.

S. B. 225, Allowing magistrates to conduct proceeding for temporary emergency protective order dealing with temporary custody by family court.

S. B. 261, Relating to increasing salary or wages of judgment debtor.

S. B. 347, Relating to modernization of Physician Assistant Practice Act.

S. B. 445, Amending definition of "abused child".

S. B. 456, Relating to standards for termination of parental rights in child abuse and neglect cases.

S. B. 497, Relating to liability for health care providers who provide services at school athletic events.

S. B. 634, Relating generally to certain agreements between DHHR and state's medical schools.

S. B. 684, Relating generally to WV State Police.

S. B. 36, Permitting school nurses to possess and administer opioid antagonists.

S. B. 41, Extending time person may be subject to probation.

S. B. 164, Relating to traffic regulations and special load limits.

S. B. 233, Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act.

S. B. 247, Authorizing prosecuting attorney designate and deliver grand jury records for investigative purposes.

S. B. 248, Clarifying composition and chairmanship of Commission on Special Investigations.

S. B. 442, Relating generally to crimes against persons.

S. B. 455, Relating generally to commitment of persons to custody of Commissioner of Corrections.

S. B. 473, Permitting collection and sale of naturally shed deer antlers.

And,

S. B. 531, Relating to renewal date for apiary certificates of registration.

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:

H. C. R. 124, Study relating to power generation facilities,

H. C. R. 126, Pastor Robert L. "Bob" Barker Memorial Bridge,

And,

H. C. R. 128, Study relating to maintenance and custodial work on state and county buildings, facilities and equipment to be done under private contract,

And reports the same back with the recommendation that they each be adopted.

Miscellaneous Business

Delegate Barrett asked and obtained unanimous consent that the remarks of Delegate Caputo regarding H. R. 13 be printed in the Appendix to the Journal.

Delegate Thompson asked and obtained unanimous consent that the remarks of Delegate Marcum regarding H. R. 13 be printed in the Appendix to the Journal.

Delegate G. Foster asked and obtained unanimous consent that the remarks of Delegate R. Miller regarding Com. Sub. for S. B. 220 be printed in the Appendix to the Journal.

Delegate Eldridge asked and obtained unanimous consent that all remarks regarding Com. Sub. for S. B. 239 be printed in the Appendix of the Journal.

Delegate Baldwin announced that he was absent on today when the votes were taken on Roll Nos. 476 through 479, and that had he been present, he would have voted "Yea" thereon.

Delegate Paynter announced that he was absent on today when the vote was taken on Roll Nos. 482, and that had he been present, he would have voted "Yea" thereon.

Delegate Moore announced that he was absent on today when the vote was taken on Roll Nos. 482, and that had he been present, he would have voted "Yea" thereon.

Delegate Dean announced that he had inadvertently vote "Yea" on Roll No. 502, and that his intention was to have voted "Nay".

Delegate Frich noted to the Clerk that she be recorded in the Journal as having voted "Nay" on the adoption of H. C. R. 75.

Delegate Ward noted to the Clerk that he be recorded in the Journal as having voted "Nay" on the adoption of H. C. R. 75 and H. C. R. 113.

Delegate Lane noted to the Clerk that she was absent on today, when the votes were taken on Roll Nos. 454 through 464, and that had she been present, she would have voted "Yea" thereon.

Delegate Sponaule noted to the Clerk that he was absent on today, when the votes were taken on S. B. 27 and Com. Sub. for S. B. 40 (Roll Nos. 468 through 470), and that had he been present, he would have voted "Yea" thereon.

Delegate White noted to the Clerk that he was absent on today, when the votes were taken on Roll Nos. 466 through 474, and that had he been present, he would have voted "Yea" thereon.

Delegates Rowan, Eldridge, A. Evans, Ferro, Fleischauer, Kelly, Lewis, Love, Lovejoy, Martin, Maynard, Moye, Paynter, Pethtel, Pyles, Queen, Rohrbach, C. Romine, R. Romine, Sypolt, Walters,

White and Zatezalo filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. C. R. 136.

At 8:49 p.m., the House of Delegates adjourned until 9:00 p.m., Saturday, April 8, 2017.

**HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470**

SPECIAL CALENDAR

Saturday, April 8, 2017

60th Day

10:00 A. M.

Unfinished Business

H. C. R. 124, Study relating to power generation facilities.

H. C. R. 126, Pastor Robert L. "Bob" Barker Memorial Bridge.

H. C. R. 128, Study relating to maintenance and custodial work on state and county buildings, facilities and equipment to be done under private contract.

HOUSE CALENDAR

Saturday, April 8, 2017

60th Day

10:00 A. M.

THIRD READING

- S. B. 25 - Creating farm-to-food bank tax credit (NELSON) (REGULAR)
- S. B. 219 - Relating to conspiracy to commit crimes under Uniform Controlled Substances Act (SHOTT) (REGULAR)
- Com. Sub. for S. B. 412 - Relating to WV Jobs Act reporting requirements (HOWELL) (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**

SATURDAY, APRIL 8, 2017

HOUSE CONVENES AT 10:00 A.M.

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – 418M**

**COMMITTEE ON RULES
9:45 A.M. – BEHIND CHAMBER**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470