

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE
REGULAR SESSION, 2018
TWENTY-THIRD DAY

Charleston, West Virginia, Thursday, February 1, 2018

The Senate met at 11:10 a.m.

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

Prayer was offered by the Honorable Charles S. Trump IV, a senator from the fifteenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Kenny Mann, a senator from the tenth district.

Pending the reading of the Journal of Wednesday, January 31, 2018,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for House Bill 2831—A Bill to amend and reenact §17B-2-7a of the Code of West Virginia, 1931, as amended, relating to the reconstitution of the Driver's Licensing Advisory Board; requiring one member of the board to be a board certified neurologist in this state; requiring the board to respond to requests of the commissioner when necessary in the discretion of the commissioner; and striking an outdated sunset provision.

Referred to the Committee on Government Organization.

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

Eng. Com. Sub. for House Bill 4006—A Bill to repeal §10-5-2a of the Code of West Virginia, 1931, as amended; to repeal §18-2I-3 of said code; to repeal §18A-3-2d of said code; to repeal §18A-3A-1, §18A-3A-2, §18A-3A-2b, §18A-3A-3 and §18A-3A-5 of said code; to repeal §18B-11-

4 and §18B-11-6 of said code; to amend and reenact §4-13-2 of said code; to amend and reenact §5-26A-3 of said code; to amend and reenact §5B-2C-6 of said code; to amend and reenact §5F-1-2 of said code; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §18-2I-1, §18-2I-2 and §18-2I-4 of said code; to amend and reenact §18-10A-1, §18-10A-2, §18-10A-3, §18-10A-6a and §18-10A-12 of said code; to amend and reenact §18-10K-2, §18-10K-5 and §18-10K-6 of said code; to amend and reenact §18-30-4 of said code; to amend and reenact §18A-2-9 and §18A-2-12 of said code; to amend and reenact §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of said code; to amend and reenact §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code; to amend and reenact §18B-1B-2 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-16-5 and §18B-16-8 of said code; to amend and reenact §18B-18B-1 of said code; and to amend and reenact §29-24-3 and §29-24-5 of said code, all relating to revising the processes through which professional development is delivered for those who provide public education in this state, including improvement of the focus on school-level continuous improvement processes led by the principal, generally; eliminating administrative offices, duplicative programs and obsolete provisions; repealing provisions related to creation and duties of distance learning coordinating council; repealing provisions related to annual state board professional development master plan; repealing provisions related to beginning principal internships; repealing provisions related to center for professional development and principals academy curriculum; repealing provisions related to center for development professional development project; repealing provisions related to principals academy establishment, mission, required attendance and employment of coordinator; repealing provisions related to pilot program of delivering educational services via distance learning; repealing provisions related to creation of depositories for assistive devices and services at two colleges or universities; repealing provisions creating the National Institute For Teaching Excellence and its governing board; modifying membership of Sesquicentennial of the American Civil War Commission; modifying membership of Commission for National and Community Service; removing Department of Education and the Arts as option to provide technical support to the Academy of Science and Technology in preparation of annual report; eliminating Department of Education and the Arts as executive department headed by secretary; transferring Division of Culture and History and Division of Rehabilitation Services to Department of Commerce; making the Educational Broadcasting Authority and Library Commission each an independent agency within executive branch; correcting names of agencies; eliminating salary of Secretary of Education and the Arts; modifying the scope and goals of the system for coordination and delivery of professional development to be instituted by State Board of Education; modifying legislative findings with respect to professional development; eliminating requirement for State Board of Education master plan for professional development; requiring State Board of Education rule to include process for aggregating school and system strategic plan information to assist design and delivery of professional development; replacing references to the secretary and the Department of Education and the Arts in rehabilitation and vocational services related statutes; modifying membership of Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board; transferring fund administration to Department of Commerce; modifying membership of College Prepaid Tuition and Savings Program Board; including instructional leadership among the responsibilities of principals and requiring course work in instructional leadership and related topics as prerequisite for administrative certification; moving from a precertification requirement to a pre-employment requirement that principals, assistant principals and administrators complete education and training in evaluation skills; deleting provisions proscribing limitations on certain rights and privileges of principals and assistant principals as teachers; removing requirements for interaction between State Board Of Education and Center for Professional Development regarding performance evaluations; removing proscription of issuance or renewal of certain administrative certificate; removing requirement for State Board Of Education consultation with Secretary of Education and Arts and Chancellor for Higher Education prior to exercise of authority

over education; adding within standards for education of professional educators requirement providing for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America; eliminating references to regional education service agencies; removing requirement for State Board of Education to consult with Secretary of Education and the Arts and the Chancellor of Higher Education; removing provisions related to required training and professional development of principals through principals academy; adding instructional leadership and management techniques to required minimum standards for rule governing training of principals; removing language relating to waivers, ineligibility, progress tracking and expenses relating to training of principals; requiring county professional staff development councils to base proposals for staff development on analysis of individual and collective need indicated in school's strategic plans; incorporating development of certain teachers, principals, assistant principals, vocational administrators and others in the provisions for a comprehensive system to improve teaching and learning; making legislative finding that professional development resources must be focused rather than increased; removing obsolete provisions related to phased implementation of provisions for professional personnel evaluations; eliminating requirement for five percent of evaluations to be based on state summative assessment and increasing percent based on evidence of student learning by five percent; incorporating principals into the comprehensive system of support for improved professional performance; requiring deficiencies identified through personnel evaluations to be incorporated in strategic plans for continuous improvement; removing language requiring posting and other provisions relating to employment; restricting certain appropriations for certain activities; modifying membership and selection process for members of Higher Education Policy Commission; modifying membership of Workforce Development Initiative Program Advisory Committee; updating agency references and removing Secretary of Education and the Arts with respect to rural health initiative; modifying membership of Science and Research Council; transferring certain references and responsibilities to Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities Board to Secretary of Commerce; directing the adoption and promulgation of rules and guidelines; and making consequential changes incident to the elimination of agencies or programs or the modification of duties, responsibilities and functions.

Referred to the Committee on Education.

The Senate proceeded to the fourth order of business.

Senator Karnes, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 78, Continuing personal income tax adjustment for certain retirees.

And reports the same back with the recommendation that it do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Robert Karnes,
Chair.

The bill, under the original double committee reference, was then referred to the Committee on Finance.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bill 102, Creating WV Uniform Fiduciary Access to Digital Assets Act.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 102 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §39B-2-101 of the Code of West Virginia, 1931, as amended, to amend and reenact §39B-3-101 of said code; and to amend said code by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18 and §44-5B-19, all relating to the Uniform Power of Attorney Act and the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing that an agent under power of attorney may exercise authority over the content of electronic communications sent or received by the principal; providing code references and additional language to the statutory form for power of attorney; creating the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets with or without an online tool; addressing terms of service agreements; setting forth procedure for disclosing digital assets by custodian allowing custodian to assess reasonable administrative charges; allowing custodian or fiduciary to seek court order when request imposes an undue burden; providing for disclosure of content of electronic communications and other digital assets of deceased users and setting forth required documentation; providing for disclosure of content of electronic communications and digital assets of a principal by custodian and setting forth required documentation; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of contents of electronic communications held in trust and other digital assets when trustee is not an original owner or user and setting forth required documentation; addressing disclosure of digital assets to conservator of a protected person and setting forth required documentation; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; setting time frame for compliance by custodian; authorizing application for court order for noncompliance; allowing custodian to notify user, deny a request, or receive a court order; providing for uniformity of application and construction of article; addressing relation of article to Electronic Signatures in Global and National Commerce Act; and providing for severability of article.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Bills 181, 182, and 183, State Fire Commission rule relating to hazardous substance emergency response training programs.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 181 (originating in the Committee on the Judiciary)—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, relating generally to the Department of Military Affairs and Public Safety; authorizing and directing certain agencies to promulgate certain legislative rules as filed and as modified and repealing an obsolete rule; authorizing the State Fire Commission to promulgate a legislative rule relating to hazardous substance emergency response training programs; directing the State Fire Marshal to promulgate a legislative rule relating to electrician licensing; 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 Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to protocol for law enforcement response to domestic violence; and repealing a Governor's Committee on Crime, Delinquency and Correction rule relating to motor vehicle stop data collection standards for the study of racial profiling.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Bill 355, Dissolving IS&C Division under Office of Technology.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 355 (originating in the Committee on Government Organization)—A Bill to repeal §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4a, §5A-7-5, §5A-7-6, §5A-7-7, §5A-7-8, §5A-7-9, §5A-7-10, and §5A-7-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-4 and §5A-6-8 of said code; and to amend said code by adding thereto two new sections, designated §5A-6-4d and §5A-6-4e, all relating to dissolving the Information Services and Communications Division; repealing article related to Information Services and Communications Division; authorizing Chief Technology Officer to provide training and other services; authorizing Chief Technology Officer provide information services; authorizing Chief Technology Officer to assess fees for services provided; requiring Chief Technology Officer provide fixed schedule of fees for providing information services; setting forth procedure to be followed if spending unit contests schedule; requiring the Chief Technology Officer to oversee telecommunications services to state spending units; requiring the Chief Technology Officer to supervise and maintain the central mailing office; directing the deposit of any moneys received for services; continuing special revenue account for administration of telecommunications services; directing Chief Technology Officer to review receipt of charges received from members; setting forth grounds for Chief Technology Officer to challenge charges with vendor and process

for doing so; requiring Office of Technology apportion charges among spending units and bill spending units; requiring Office of Technology pay uncontested amounts due for telecommunications services; requiring state spending units pay statements from Office of Technology; authorizing the secretary to direct the transfer of funds into the special revenue account for unpaid telecommunications services; authorizing the secretary to assess a penalty with notice on spending units for unpaid amounts for telecommunications services; authorizing Chief Technology Officer to invoice spending units for amounts paid on behalf of the spending unit; providing a process for state spending units to contest amounts due; authorizing the Secretary of the Department of Administration to make a final decision on contested amounts due; authorizing Chief Technology Officer to discontinue telecommunication services to spending unit that fails to comply with provisions of article; authorizing a proportional fee be assessed against spending units; defining terms; granting rulemaking authority; making technical corrections; authorizing a special fund to receive moneys for services provided by the agency; transferring Information Services and Communication Fund to Office of Technology; closing Chief Technology Officer Administration Fund and transferring any remaining balance; authorizing the Chief Technology Officer to grant waivers for certain services required by statute; and requiring waiver be granted to Constitutional officers for certain services upon request.

With the recommendation that the committee substitute do pass; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

C. Edward Gaunch,
Chair.

The bill (Com. Sub. for S. B. 355), under the original double committee reference, was then referred to the Committee on Finance.

Senator Karnes, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 425, Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan.

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

Respectfully submitted,

Robert Karnes,
Chair.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4013, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,

Chair.

The Senate proceeded to the sixth order of business.

On motions for leave, severally made, the following bills and joint resolution were introduced, read by their titles, and referred to the appropriate committees:

By Senators Rucker, Sypolt, Unger, Trump, and Boso:

Senate Bill 446—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, and §19-36-5, all relating to agritourism; stating legislative purpose; defining terms; establishing duties of agritourism business; establishing duties of participants of agritourism; establishing liability for agritourism; mandating agritourism business post a warning on signs and contracts; and disallowing agritourism business from invoking immunity when warning language not used.

Referred to the Committee on Agriculture and Rural Development.

By Senator Sypolt:

Senate Bill 447—A Bill to amend and reenact §44-1-29 of the Code of West Virginia, 1931, as amended, relating to transferring and amending conservation or preservation easements by a personal representative, trustee, administrator, or executor of a deceased person or the person's estate; distinguishing between easements created prior to or after the death of the person; eliminating the authority to execute deeds of easement; and recognizing transfers and amendments authorized through court proceedings.

Referred to the Committee on the Judiciary.

By Senators Gaunch and Boso:

Senate Bill 448—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-9B-1, §47-9B-2, §47-9B-3, §47-9B-4, §47-9B-5, §47-9B-6, §47-9B-7, §47-9B-8, §47-9B-9, and §47-9B-10, all relating generally to professional associations; establishing applicability; establishing who may be owners and officers; establishing duties and powers of owners and managerial officers who cease to be licensed; providing for preapproval by licensing boards; identifying who may be an authorized person; providing for transfer of ownership interests; setting forth liability; providing for joint practice by certain professionals; requiring registration; and defining terms.

Referred to the Committee on Government Organization.

By Senators Gaunch, Boso, Drennan, Maynard, Rucker, Smith, Weld, Woelfel, and Cline:

Senate Bill 449—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §30A-1-1, §30A-1-2, §30A-2-1, §30A-2-2, §30A-2-3, §30A-2-

4, §30A-2-5, §30A-2-6, and §30A-2-7, all relating to using records of criminal conviction to disqualify a person from receiving a license or other authorization to practice an occupation; defining the scope of the law and defining terms; requiring specificity in defining disqualifying offenses; establishing time limits; barring political subdivisions from creating restrictions for new license categories; providing a petition process to review the effect of a criminal record; and requiring state authorities to update legislative rules.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Karnes, Azinger, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Mann, Maroney, Maynard, Romano, Rucker, Smith, Swope, and Trump:

Senate Bill 450—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-12a, relating to collecting and analyzing statistical information pertaining to termination of pregnancies under the West Virginia Medicaid Program; declaring legislative objectives; requiring the submission of reporting forms by providers; providing for patient confidentiality; specifying required information; providing for the collection and aggregation of data; permitting access to de-identified data; and requiring the creation of analytical reports.

Referred to the Committee on Health and Human Resources; and then to the Committee on Finance.

By Senators Maynard, Clements, Ferns, Gaunch, Maroney, Rucker, Smith, Swope, Weld, and Cline:

Senate Bill 451—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to permitting Sunday hunting on public lands.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

By Senator Maynard:

Senate Bill 452—A Bill to amend and reenact §20-2-27 of the Code of West Virginia, 1931, as amended, relating to hunting licenses; and exempting the list of names, addresses, and contact information for license holders from public disclosure with certain exceptions.

Referred to the Committee on Natural Resources; and then to the Committee on the Judiciary.

By Senators Cline, Arvon, Drennan, Mann, Maynard, Takubo, and Maroney:

Senate Bill 453—A Bill to amend and reenact §5-16-5 of the Code of West Virginia, 1931, as amended, relating to fixing the premium cost sharing at 85 percent for the employer and 15 percent for the employee.

Referred to the Committee on Banking and Insurance; and then to the Committee on Finance.

By Senators Azinger, Arvon, Karnes, Maynard, Rucker, Cline, and Boso:

Senate Bill 454—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §23-2-1b, relating to the classification of owner-operators and independent contractors who contract with licensed and registered trucking companies as nonemployees under workers' compensation law.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Smith and Sypolt:

Senate Bill 455—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §37-4-9; and to amend and reenact §55-12A-7 of said code, all relating to providing that proceeds from certain oil and gas wells that are due to persons whose name or address are unknown are to be kept in a special fund and if unclaimed within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund; providing that if there is a surface disturbance those named surface owners of a leased interest subject to pooling for a horizontal well are the only surface owners insofar as the well permit is concerned; providing that if another surface owner should become known his or her name shall be added as a surface owner on the permit; providing that if proceeds from other mineral tracts in a unit or pool of a horizontal well are not claimed by an unknown, missing, or abandoned owner within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund; providing that certain provisions take effect beginning when funds have been unclaimed for seven years after the special commissioner's lease regardless of when the lease was signed; and authorizing rulemaking.

Referred to the Committee on Energy, Industry, and Mining; and then to the Committee on Finance.

By Senators Gaunch, Takubo, Ferns, Boso, and Maroney:

Senate Bill 456—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, and §30-41-3, all relating to creating the Physical Therapy Licensure Compact Act; authorizing the Governor to execute the act with any one or more of the states of the United States; providing that Legislature signifies in advance its approval and ratification of the compact; providing that the purpose of this compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services; setting forth the substance, requirements, and privileges of the act; and establishing an effective date.

Referred to the Committee on Government Organization.

By Senator Beach:

Senate Bill 457—A Bill to amend and reenact §24A-1-3 of the Code of West Virginia, 1931, as amended, relating generally to the jurisdiction of the Public Service Commission over motor carriers; and exempting vehicles engaged in nonemergency transportation of Medicaid members from permit requirements.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

By Senators Swope, Rucker, Trump, Cline, and Boso:

Senate Bill 458—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-5A-1, §21-5A-2, §21-5A-3, and §21-5A-4, all relating to prohibiting political subdivisions from enacting any ordinance, regulation, local policy, local resolution, or other legal requirements regulating certain areas of the employer-employee relationship and the sale or marketing of consumer merchandise; establishing a short title; establishing areas where political subdivisions are prohibited from enacting or promulgating ordinances, local policies, or local regulations; and providing for exceptions and applicability.

Referred to the Committee on the Judiciary.

By Senators Rucker, Azinger, Karnes, and Smith:

Senate Bill 459—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, §15-15-6, §15-15-7, and §15-15-8, all relating to enacting the Refugee Absorptive Capacity Act; providing a short title; defining terms; designating a state office within the Department of Health and Human Services which deals with refugees; providing for a moratorium on applications and cessations; providing for a fiscal impact assessment; requiring reports; and providing for administration and severability.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

By Senators Rucker, Arvon, Azinger, Karnes, Maroney, Maynard, and Cline:

Senate Bill 460—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-8F-1, §61-8F-2, §61-8F-3, §61-8F-4, §61-8F-5, §61-8F-6, and §61-8F-7, all relating to prohibiting retailers from selling or leasing products that make content accessible on the Internet, unless the product contains an active and operating digital blocking capability that renders obscene material inaccessible; providing exceptions; defining terms; establishing a fee; creating a special fund; designating how moneys from the fund may be spent; and providing for injunctive relief, civil actions, and criminal penalties.

Referred to the Committee on the Judiciary.

By Senators Ferns and Cline:

Senate Bill 461—A Bill to amend and reenact §11-14C-31 of the Code of West Virginia, 1931, as amended, relating to petitions for tax refunds; and extending the time period to file a petition for motor fuel excise tax refunds.

Referred to the Committee on Finance.

By Senators Rucker, Arvon, Azinger, Blair, Boley, Boso, Cline, Ferns, Gaunch, Karnes, Mann, Maynard, Smith, Swope, Sypolt, and Maroney:

Senate Joint Resolution 12—Proposing an amendment to the Constitution of the State of West Virginia, amending article VI thereof, by adding thereto a new section, designated section 57, relating to authorizing the Legislature to, by general law, acknowledge legislative authority to protect innocent life, and the Legislature's right to enact, amend, or repeal statutes regarding abortion; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary.

Senator Carmichael (Mr. President), Ferns, Stollings, and Boso offered the following resolution:

Senate Resolution 23—Recognizing the contributions and efforts of Donate Life West Virginia partners on the occasion of Hospital Day at the Legislature.

Whereas, Donate Life West Virginia partners consists of four organ procurement organizations that cover the state of and encourage West Virginians to Make the Pledge for Life by registering to become an organ, tissue, or cornea donor; and

Whereas, In 2017, there were 151 donor families from the West Virginia affiliated with the Center for Organ Recovery & Education (CORE), Kentucky Organ Donor Affiliates, Lifeline of Ohio Organ Procurement Agency, and LifeNet Health; and

Whereas, In 2017, there were 68 organ donors and 219 tissue donors in West Virginia; and

Whereas, Over 500 West Virginia adults and children are waiting for an organ transplant; and

Whereas, West Virginians, including 3-year-old Maren Foster, who received a life-saving liver transplant in the Cincinnati Children's Hospital at the age of 8 months, are blessed with a second chance to live long and productive lives surrounded by loving and grateful families and friends; and

Whereas, West Virginia communities and families band together in support of organ recipients, like Maren Foster recognizing the courage and sacrifice of donor families, who often remain anonymous, even to those whose lives they save; and

Whereas, West Virginia recipients and communities are awed and humbled by the generosity of donors and their families, such as the late Nadya Irena Zitek, mother and nurse who gave the gift of life to five individuals waiting for their life-saving transplants, as well as the Halstead family, whose gift in the face of terrible tragedy inspires others to renewed hope and optimism. May they find peace and comfort; and

Whereas, Charleston Area Medical Center assisted in completing a total of 28 kidney transplants in West Virginia alone in 2017; and

Whereas, The West Virginia Division of Motor Vehicles facilitates the process of designating individuals as organ donors by allowing West Virginians to simply check the donor box on their application or renewal form for their driver's license or photo identification at the local DMV office; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the contributions and efforts of Donate Life West Virginia partners on the occasion of Hospital Day at the Legislature; and, be it

Further Resolved, That the Senate acknowledges the overwhelming value of lifesaving organ donation and transplant services within our own communities, and encourages all eligible West Virginians to register as donors; and be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of CORE, Kentucky Organ Donor Affiliates, Lifeline of Ohio Organ Procurement Agency, and LifeNet.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Boso regarding the adoption of Senate Resolution 23 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:33 a.m., the Senate recessed to present Senate Resolution 23.

The Senate reconvened at 11:37 a.m. today and resumed business under the sixth order.

Senators Baldwin, Stollings, Plymale, and Beach offered the following resolution:

Senate Resolution 24—Celebrating the efforts and contributions of the Greenbrier County Elder Abuse Awareness Committee.

Whereas, The Greenbrier County Elder Abuse Awareness committee was formed in 2009 after an elderly Greenbrier County woman died of neglect by family members. At the time, if an elder died of neglect, it was only a misdemeanor crime. Senator William R. Laird IV introduced and helped pass legislation making it a felony; and

Whereas, The committee started out small, but soon saw that the problems were multifaceted and the committee needed the input of many different individuals. Current membership includes a representative from medical social work, elder abuse advocates, hospital personnel, nursing home, home health, the local committee on aging, disability, Shepherd's Center, law enforcement, Adult Protective Services, West Virginia School of Osteopathic Medicine, mental health, a prosecuting attorney, and a former bank employee; and

Whereas, Over the years, the committee has sponsored communitywide workshops and programs to increase the awareness of the elder abuse program in the county; and

Whereas, In 2013, the WV Coalition Against Domestic Violence was awarded one of nine national grants by the Office of Violence Against Women to work on the issue of elder abuse. Greenbrier and McDowell counties were chosen to establish training teams and receive training from national trainers; and

Whereas, The teams consist of law enforcement, prosecuting attorneys, victim services, Adult Protective Services, and the elder community. The team members have trained many law-enforcement officers, victim service providers, and others in West Virginia over the last three and a half years and continue to do so; and

Whereas, As an outgrowth of the local work and the training team members, Greenbrier County has established a multidisciplinary investigative team which meets bimonthly to address elder abuse issues in the criminal justice system. Multidisciplinary investigative teams are common in child abuse cases nationally, but the Greenbrier County team is believed to be the only one of its kind in the state; and

Whereas, The team has seen an increase in the number of cases of elder abuse that are prosecuted and victims who receive services; and

Whereas, It is the hope of the committee that teams will be established throughout West Virginia to meet this growing problem in our communities; therefore, be it

Resolved by the Senate:

That the Senate hereby celebrates the efforts and contributions of the Greenbrier County Elder Abuse Awareness Committee; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of the Greenbrier County Elder Abuse Awareness Committee.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Baldwin regarding the adoption of Senate Resolution 24 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:40 a.m., the Senate recessed to present Senate Resolution 24.

The Senate reconvened at 11:43 a.m. today and resumed business under the sixth order.

Petitions

Senator Drennan presented a petition from Rebecca S. Shuler and 336 Pliny area residents, requesting the restoration of Plantation Creek Road in Pliny, West Virginia.

Referred to the Committee on Transportation and Infrastructure.

At the request of Senator Ferns, unanimous consent being granted, the Senate returned to the fourth order of business.

Senator Karnes, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

Senate Bill 462 (originating in the Committee on Pensions)—A Bill to amend and reenact §5-10-29 and §5-10-32 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-7 of said code; to amend and reenact §8-22A-8 of said code; to amend and reenact §15-2-26 of said code; to amend and reenact §15-2A-5 of said code; to amend and reenact §16-5V-8 of said code; to amend and reenact §18-7A-14; and to amend and reenact §51-9-2 and §51-9-4 of said code, all relating to establishing a pension contribution holiday for plans administered by the Consolidated Public Retirement Board when funding for certain public retirement plans.

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

Respectfully submitted,

Robert Karnes,
Chair.

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

Senate Bill 463 (originating in the Committee on Agriculture and Rural Development)—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

designated §16-7-5A, relating to authorizing the establishment of a work group to examine the potential benefit and need of transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture.

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

Respectfully submitted,

Dave Sypolt,
Chair.

The Senate proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 3, Michael Angiulli Memorial Bridge.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 336, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 336) passed with its title.

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

Senate Bill 384, Decreasing and increasing appropriations from State Fund, General Revenue to DHHR.

On third reading, coming up in regular order, with the right having been granted on yesterday, Wednesday, January 31, 2018, for further amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Jeffries and Gaunch, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page two, after line twenty-seven, by inserting the following:

And, That the total appropriation for the fiscal year ending June 30, 2018, to fund 0407, fiscal year 2018, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

56 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2018 Org 0506

	Appro-		General
	priation		Revenue
			Fund
25 Health Right Free Clinics	72700	\$	500,000;

And,

On page three, item fifty-seven, line thirteen, by striking out “34,627,000” and inserting in lieu thereof “34,127,000”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Jeffries and Gaunch to the bill (S. B. 384), and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the amendments offered by Senators Jeffries and Gaunch to the bill adopted.

There being no further amendments offered,

The bill, as just amended, was ordered to engrossment.

Engrossed Senate Bill 384 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Senate Bill 384 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—23.

The nays were: Baldwin, Beach, Facemire, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—11.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 384) passed.

On motions of Senators Jeffries and Gaunch, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 384—A Bill supplementing and amending by decreasing and increasing existing appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Health and Human Resources – Division of Human Services, fund 0403, fiscal year 2018, organization 0511, to the Department of Health and Human Resources, Consolidated Medical Services Fund, fund 0525, fiscal year 2018, organization 0506, to the Bureau of Senior Services, fund 0420, fiscal year 2018, organization 0508, and to the Department of Health and Human Resources – Division of Health – Central Office, fund 0407, fiscal year 2018, organization 0506, by supplementing, amending, increasing, and decreasing the appropriations for the fiscal year ending June 30, 2018.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—23.

The nays were: Baldwin, Beach, Facemire, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—11.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 384) takes effect from passage.

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

Eng. Senate Bill 393, Relating to compensation and composition of WV Racing Commission.

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

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 10, Relating generally to PSC jurisdiction.

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

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

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

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 19. MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS.

PART II. LIMITATIONS ON SALE OR LEASE OF

CERTAIN MUNICIPAL WATERWORKS.

§8-19-2. Contracts for purchase of electric power or energy by a municipality; definitions; requirements; payments; rates and charges.

(a) For the purposes of this section:

(1) "Contract" means an agreement entered into by a municipality with any other party for the purchase of electric output, capacity, or energy from a project as defined herein.

(2) "Any other party" means any other legal entity, including, but not limited to, another municipality, political subdivision, public authority, agency, or instrumentality of any state or the United States, a partnership, a limited partnership, a limited liability company, a corporation, an electric cooperative or an investor-owned utility existing under the laws of any state; and

(3) "Project" or "projects" means systems or facilities owned by another party and used for the generation, transmission, transformation, or supply of electric power, or any interest in them, whether an undivided interest as a tenant in common or otherwise, or any right to the output, capacity, or services thereof.

(b) In addition to the general authority to purchase electricity on a wholesale basis for resale to its customers, any municipality that owns and operates an electric power system under the provisions of this article may enter into a contract with any other party for the purchase of electricity from one or more projects located in the United States that provide that the contracting municipality is obligated to make payments required by the contract whether or not a project is

completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for, and that the payments shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon performance or nonperformance by any other party. The contract may provide that, in the event of a default by the municipality or any other party to the contract in the performance of each entity's obligations under the contract, any non-defaulting municipality or any other party to the contract shall on a pro rata basis succeed to the rights and interests of, and assume the obligations of, the defaulting party.

(c) Notwithstanding any other provisions of law, ordinance or charter provision to the contrary, a contract under subsection (b) of this section may extend for more than 50 years or 50 years from the date a project is estimated to be placed into normal continuous operation and the execution and effectiveness of the contract is not subject to any authorizations or approvals by the state or any agency, commission, instrumentality, or political subdivision thereof except as otherwise specifically required by law.

(d) A contract under subsection (b) of this section may provide that payments by the municipality are made solely from and may be secured by a pledge of and lien upon revenues derived by the municipality from ownership and operation and that payments shall constitute an operating expense of the electric power system. No obligation under the contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any of its income, receipts, or revenues, except the revenues of the municipality's electric power system. Neither the faith and credit nor the taxing power of the municipality shall be pledged for the payment of any obligation under the contract.

(e) A municipality contracting under the provisions of subsection (b) of this section is obligated to fix, charge and collect rents, rates, fees, and charges for electric power and energy and other services it sells, furnishes, or supplies through its electric power system in an amount sufficient to provide revenues adequate to meet its obligations under the contract and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including the amounts necessary to pay the principal and interest on any municipal bonds issued related to its electric power system: *Provided*, That any change in the rates and charges of the municipality to the customers of the electric power system under the provisions of this section are subject to the provisions and requirements of ~~section four b, article two, chapter twenty-four~~ §8-19-2a of this code and the obligations of the municipality under the contract are costs of providing electric service within the meaning of that section.

§8-19-2a. Procedure for changing rates of municipal electric power systems; legislative findings.

All rates, fees, and charges set by municipal electric power systems shall be just, reasonable, applied without unjust discrimination between or preference for any customer or class of customer, and based primarily on the costs of providing these services. All rates and charges shall be based upon the measured or reasonably estimated cost of service and the equitable sharing of those costs between customers based upon the cost of providing the service received by the customer, including a reasonable slant-in-service depreciation expense. The rates and charges shall be adopted by the power system's governing board by municipal ordinance to be effective not sooner than 45 days after adoption. The 45 day waiting period may be waived by public vote of the governing body if that body finds and declares the public utility that is a political subdivision of the state to be in financial distress, such that the 45 day waiting period would be detrimental to the ability of the utility to deliver continued and compliant public services: *Provided*,

That notice of intent to effect a rate change shall be specified on the monthly billing statement of the customers of the utility for the month next preceding the month in which the rate change is to become effective, and the governing body shall give its customers other reasonable notices as will allow filing of timely objections to the proposed rate change and full participation in municipal rate legislation through the provision of a public forum in which customers may comment upon the proposed rate change prior to an enactment vote. Notwithstanding the exclusion of municipal power systems' rates, fees, charges, and ratemaking process from the jurisdiction of the Public Service Commission, municipal power systems shall submit information regarding their rates, fees, and charges to the commission as set forth in §24-2-9 of this code.

§8-19-2b. Right of appeal by customers.

Customers may appeal a rate increase to the circuit court of the county in which the municipality is located on the grounds that the rate ordinance or its passage does not comply with the provisions of this article by filing a petition, signed by at least 750 customers or 25 percent of the customers served by the municipal electric utility, whichever is fewer. Any petition challenging the ordinance must be filed within 30 days following the adoption of the rate ordinance.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1. Jurisdiction of commission; waiver of jurisdiction.

~~(a) The jurisdiction of the commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:~~

~~Common carriage of passengers or goods, whether by air, railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity by municipalities or others; sewer systems servicing twenty-five or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of article thirteen-a, chapter sixteen of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however*, That natural gas producers who provide natural gas service to not more than twenty-five residential customers are exempt from the jurisdiction of the commission with regard to the provisions of such residential service: *Provided further*, That upon request of any of the customers of such natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates and charges of such producer and for such length of time as the commission may consider to be proper.~~

~~(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:~~

~~(1) General supervision of public utilities, as granted and described in section five of this article;~~

~~(2) Regulation of measurements, practices, acts or services, as granted and described in section seven of this article;~~

~~(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in section eight of this article;~~

~~(4) Submission of information to the commission regarding rates, tolls, charges or practices, as granted and described in section nine of this article;~~

~~(5) Authority to subpoena witnesses, take testimony and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in section ten of this article; and~~

~~(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees and charges, service areas and contested utility combinations. Provided, that any request for an investigation related to such a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve said dispute within 120 days of filing. The one hundred twenty day period for resolution of the dispute may be tolled by the Commission until the necessary information showing the basis of the rates, fees and charges or other information as the commission considers necessary is filed. Provided further, the disputed rates, fees and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or amended by the commission in an order to be followed in the future.~~

~~(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints~~

~~(8) In the event that a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for such redress as will bring the accounts to current status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the alleged deficiency or breach.~~

~~(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:~~

~~(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;~~

~~(2) Said area can be provided with utility service by a utility which operates in a state adjoining West Virginia;~~

~~(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and~~

~~(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.~~

~~(d) Any other provisions of this chapter to the contrary notwithstanding:~~

~~(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article as if the certificate of public convenience and necessity for such facility were a siting certificate issued under said section and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.~~

~~(2) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.~~

~~(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, shall not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility, regardless of whether such facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That such owner or operator shall be subject to subdivision (5) of this subsection if a material modification of such facility is made or constructed.~~

~~(4) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated~~

~~as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.~~

~~(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of section eleven of this article and, except for the provisions of section eleven-c of this article, shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such modification.~~

~~(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to section eleven of this article to construct an electric generating facility described in this subsection or to make or construct a material modification of such electric generating facility as an application for a siting certificate pursuant to section eleven-c of this article if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.~~

~~(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection shall not be deemed to affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of such facility and any affiliated public utility subject to the provisions of this chapter.~~

~~(e) The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:~~

~~(1) "Internet protocol-enabled service" means any service, capability, functionality or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.~~

~~(2) "Voice-over Internet protocol service" means any service that:~~

~~(i) Enables real-time two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and~~

~~(ii) Uses a broadband connection from the user's location.~~

~~(3) The term "voice over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.~~

~~(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to sections twelve and twelve-a, article two, chapter twenty-four of this code if all entities involved in the transaction are under common ownership.~~

(a) The jurisdiction of the commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas, or electricity by municipalities or others; sewer systems servicing twenty-five or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of article thirteen-a, chapter sixteen of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however*, That natural gas producers who provide natural gas service to not more than twenty-five residential customers are exempt from the jurisdiction of the commission with regard to the provisions of such residential service: *Provided further*, That upon request of any of the customers of such natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates and charges of such producer and for such length of time as the commission may consider to be proper.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in section five of this article;

(2) Regulation of measurements, practices, acts or services, as granted and described in section seven of this article;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in section eight of this article;

(4) Submission of information to the commission regarding rates, tolls, charges or practices, as granted and described in section nine of this article;

(5) Authority to subpoena witnesses, take testimony and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in section ten of this article; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees and charges, service areas and contested utility combinations. Provided, that any request for an investigation related to such a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve said dispute within 120 days of filing. The 120 day period for resolution of the dispute may be tolled by the Commission until the necessary information showing the basis of the rates, fees and charges or other information as the commission considers necessary is filed. Provided further, the disputed rates, fees, and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints

(8) In the event that a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for such redress as will bring the accounts to current status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) Said area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will

be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article as if the certificate of public convenience and necessity for such facility were a siting certificate issued under said section and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(2) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, shall not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility, regardless of whether such facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That such owner or operator shall be subject to subdivision (5) of this subsection if a material modification of such facility is made or constructed.

(4) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to subsections (e), (f), (g), (h), (i) and (j), section eleven-c of this article and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in subdivision (5) of this subsection.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of section eleven-c of this article in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of section eleven of this article and, except for the provisions of section eleven-c of this article, shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to section eleven of this article to construct an electric generating facility described in this subsection or to make or construct a material modification of such electric generating facility as an application for a siting certificate pursuant to section eleven-c of this article if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection shall not be deemed to affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of such facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to sections twelve and twelve-a, article two, chapter twenty-four of this code if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission shall not have jurisdiction over

the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.

§24-2-2. General power of commission to regulate public utilities.

(a) The commission ~~is hereby given power to~~ may investigate all rates, methods and practices of public utilities subject to the provisions of this chapter; to require them to conform to the laws of this state and to all rules, regulations and orders of the commission not contrary to law; and to require copies of all reports, rates, classifications, schedules and timetables in effect and used by the public utility or other person to be filed with the commission, and all other information desired by the commission relating to the investigation and requirements, including inventories of all property in ~~such the~~ form and detail as the commission ~~may prescribe~~ prescribes. The commission may compel obedience to its lawful orders by mandamus or injunction or other proper proceedings in the name of the state in any circuit court having jurisdiction of the parties or of the subject matter, or the Supreme Court of Appeals directly, and the proceedings shall have priority over all pending cases. The commission may change any intrastate rate, charge or toll which is unjust or unreasonable or any interstate charge with respect to matters of a purely local nature which have not been regulated by or pursuant to an act of Congress and may prescribe a rate, charge or toll that is just and reasonable, and change or prohibit any practice, device or method of service in order to prevent undue discrimination or favoritism between persons and between localities and between commodities for a like and contemporaneous service. But in no case ~~shall~~ may the rate, toll or charge be more than the service is reasonably worth, considering the cost of the service. Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, modified or revoked by order or decree of a court of competent jurisdiction: *Provided*, That in the case of utilities used by emergency shelter providers, the commission shall prescribe ~~such~~ rates, charges or tolls that are the lowest available. "Emergency shelter provider" means any nonprofit entity which provides temporary emergency housing and services to the homeless or to victims of domestic violence or other abuse.

(b) Notwithstanding any other provision of this code to the contrary, rates are not discriminatory if, when considering the debt costs associated with a future water or sewer project which would not benefit existing customers, the commission establishes rates which ensure that the future customers to be served by the new project are solely responsible for the debt costs associated with the project.

(c) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission over water and/or sewer utilities that are political subdivisions of the state providing a separate or combined services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more ~~shall be~~ is limited to those powers enumerated in §24-2-1(b) of this code.

(d) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission does not extend over the setting or adjustment of rates, fees, and charges of municipal power systems. The rates, fees, charges and ratemaking process of municipal power systems is governed by the provisions of §8-19-2a of this code.

§24-2-3. General power of commission with respect to rates.

(a) The commission ~~shall have power to~~ may enforce, originate, establish, change and promulgate tariffs, rates, joint rates, tolls and schedules for all public utilities except for municipal

power systems and water and/or sewer utilities that are political subdivisions of this state providing a separate or combined services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more: *Provided*, That the commission may exercise such rate authority over municipally owned ~~electric or~~ natural gas utilities or a municipally owned water and/or sewer utility having less than 4,500 customers or annual combined gross revenues of less than \$3 million, only under the circumstances and limitations set forth in §24-2-4b of this code, and subject to the provisions set forth in subsection (b) of this section. And whenever the commission, ~~shall~~ after hearing, ~~find~~ finds any existing rates, tolls, tariffs, joint rates or schedules enacted or maintained by a utility regulated under the provisions of this section to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall, by an order, fix reasonable rates, joint rates, tariffs, tolls or schedules to be followed in the future in lieu of those found to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any provisions of law, and the ~~said~~ commission, in fixing the rate of any railroad company, may fix a fair, reasonable and just rate to be charged on any branch line thereof, independent of the rate charged on the main line of ~~such~~ the railroad.

(b) Any complaint filed with the commission by a resale or wholesale customer of a municipally owned water and/or sewer utility having less than 4,500 customers or annual combined gross revenue of less than \$3 million concerning rates, fees or charges applicable to such resale or wholesale customer, shall be filed within 30 days of the enactment by the governing body of the political subdivision of an ordinance changing rates, fees or charges for such service. The commission shall resolve said complaint within 120 days of filing. The 120 day period for resolution of the complaint may be tolled by the commission until the necessary information showing the basis of the rates, fees, charges and other information as the commission considers necessary is filed: *Provided*, That rates, fees, and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or amended by the commission in an order to be followed in the future: *Provided, however*, That the commission shall have no authority to order refunds for amounts collected during the pendency of the complaint proceeding unless the rates, fees, or charges so enacted by the governing body were enacted subject to refund under the provisions of §24-2-4b (d)(2) or (g) of this code.

(c) In determining just and reasonable rates, the commission may audit and investigate management practices and policies, or have performed an audit and investigation of such practices and policies, in order to determine whether the utility is operating with efficiency and is utilizing sound management practices. The commission shall adopt rules and regulations setting forth the scope, frequency and application of such audits and investigations to the various utilities subject to its jurisdiction. The commission may include the cost of conducting the management audit in the cost of service of the utility.

(d) In determining just and reasonable rates, the commission shall investigate and review transactions between utilities and affiliates. The commission shall limit the total return of the utility to a level which, when considered with the level of profit or return the affiliate earns on transactions with the utility, is just and reasonable.

§24-2-4b. Procedures for changing rates of electric and natural gas cooperatives, local exchange services of telephone cooperatives and municipally operated public utilities.

(a) The rates and charges of electric cooperatives, natural gas cooperatives and municipal water and/or sewer utilities that are political subdivisions of the state having less than 4,500

customers or annual combined gross revenues of less than \$3 million, except for municipally operated commercial solid waste facilities as defined in §22-15-2 of this code, and the rates and charges for local exchange services provided by telephone cooperatives are not subject to the rate approval provisions of §24-2-4 or §24-2-4a of this code, but are subject to the limited rate provisions of this section.

(b) All rates and charges set by electric cooperatives, natural gas cooperatives and municipally operated public utilities that are political subdivisions of the state providing water, sewer, ~~electric~~ and/or natural gas services that are subject to the provisions of this section and all rates and charges for local exchange services set by telephone cooperatives shall be just, reasonable, applied without unjust discrimination between or preference for any customer or class of customer and based primarily on the costs of providing these services. All rates and charges shall be based upon the measured or reasonably estimated cost of service and the equitable sharing of those costs between customers based upon the cost of providing the service received by the customer, including a reasonable plant-in-service depreciation expense. The rates and charges shall be adopted by the electric, natural gas, telephone cooperative or political subdivision's governing board or body and, in the case of the municipally operated public utility, by municipal ordinance to be effective not sooner than 45 days after adoption. The 45 day waiting period may be waived by public vote of the governing body if that body finds and declares the public utility that is a political subdivision of the state to be in financial distress such that the 45 day waiting period would be detrimental to the ability of the utility to deliver continued and compliant public services: *Provided*, That notice of intent to effect a rate change shall be specified on the monthly billing statement of the customers of the utility for the month next preceding the month in which the rate change is to become effective and the utility governing body shall give its customers and, in the case of a cooperative, its customers, members and stockholders, other reasonable notices as will allow filing of timely objections to the proposed rate change and full participation in municipal rate legislation through the provision of a public forum in which customers may comment upon the proposed rate change prior to an enactment vote. The rates and charges or ordinance shall be filed with the commission, together with any information showing the basis of the rates and charges and other information as the commission considers necessary. Any change in the rates and charges with updated information shall be filed with the commission. If a petition, as set out in subdivision (1), (2) or (3), subsection (c) of this section, is received and the electric cooperative, natural gas cooperative or telephone cooperative or municipality has failed to file with the commission the rates and charges with information showing the basis of rates and charges and other information as the commission considers necessary, the suspension period limitation of 120 days and the 100 day period limitation for issuance of an order by a hearing examiner, as contained in subsections (d) and (e) of this section, is tolled until the necessary information is filed. The electric cooperative, natural gas cooperative, telephone cooperative or municipality shall set the date when any new rate or charge is to go into effect.

(c) The commission shall review and approve or modify the rates and charges of electric cooperatives, natural gas cooperatives, telephone cooperatives, or municipal ~~electric or~~ natural gas utilities and municipally owned water and/or sewer utilities that are political subdivisions of the state and having less than 4,500 customers or annual combined revenues of less than \$3 million upon the filing of a petition within 30 days of the adoption of the ordinance or resolution changing the rates or charges by:

(1) Any customer aggrieved by the changed rates or charges who presents to the commission a petition signed by not less than 25 percent of the customers served by the municipally operated ~~electric or~~ natural gas public utility or municipally owned water and/or sewer utility or 25 percent of the membership of the electric, natural gas or telephone cooperative residing within the state;

(2) Any customer who is served by a municipally owned ~~electric or~~ natural gas public utility and who resides outside the corporate limits and who is affected by the change in the rates or charges and who presents to the commission a petition alleging discrimination between customers within and without the municipal boundaries. The petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers of the municipally owned ~~electric or~~ natural gas public utility who is affected by the change in rates who reside within the municipal boundaries and who present a petition to the commission alleging discrimination between a customer or group of customers and other customers of the municipal utility. The petition shall be accompanied by evidence of discrimination.

(d) (1) The filing of a petition with the commission signed by not less than 25 percent of the customers served by the municipally owned ~~electric or~~ natural gas public utility or a municipally owned water and/or sewer utility having less than 4,500 customers or annual combined gross revenues of less than \$3 million or twenty-five percent of the membership of the electric, natural gas or telephone cooperative residing within the state under subsection (c) of this section shall suspend the adoption of the rate change contained in the ordinance or resolution for a period of one hundred twenty days from the date the rates or charges would otherwise go into effect or until an order is issued as provided herein.

(2) Upon sufficient showing of discrimination by customers outside the municipal boundaries or a customer or a group of customers within the municipal boundaries under a petition filed under subdivision (2) or (3), subsection (c) of this section, the commission shall suspend the adoption of the rate change contained in the ordinance for a period of 120 days from the date the rates or charges would otherwise go into effect or until an order is issued as provided herein. A municipal rate ordinance enacted pursuant to the provisions of this section and municipal charter or state code that establishes or proposes a rate increase that results in an increase of less than 25 percent of the gross revenue of the utility shall be presumed valid and rates shall be allowed to go into effect, subject to refund, upon the date stated in that ordinance. Any refund determined to be due and owing as a result of any difference between any final rates approved by the commission and the rates placed into effect subject to refund shall be refunded as a credit against each customer's account for a period of up to six months after entry of the commission's final order. Any remaining balance which is not fully credited by credit within six months after entry of the commission's final order shall be directly refunded to the customer by check. In the case of rates established or proposed that increase by more than 25 percent of the gross revenue of the municipally operated public utility, the utility may apply for, and the commission may grant, a waiver of the suspension period and allow rates to be effective upon enactment.

(e) The commission shall forthwith appoint a hearing examiner from its staff to review the grievances raised by the petitioners. The hearing examiner shall conduct a public hearing and shall, within 100 days from the date the rates or charges would otherwise go into effect, unless otherwise tolled as provided in subsection (b) of this section, issue an order approving, disapproving or modifying, in whole or in part, the rates or charges imposed by the electric, natural gas or telephone cooperative or by the municipally operated public utility pursuant to this section.

(f) Upon receipt of a petition for review of the rates under the provisions of subsection (c) of this section, the commission may exercise the power granted to it under the provisions of §24-2-3 of this code, consistent with the applicable rate provisions of §8-10-2, §8-19-4 and §16-13-16 of this code. The commission may determine the method by which the rates are reviewed and

may grant and conduct a de novo hearing on the matter if the customer, electric, natural gas or telephone cooperative or municipality requests a hearing.

(g) The commission may, upon petition by an electric, natural gas or telephone cooperative or municipal ~~electric or~~ natural gas public utility or a municipally owned water and/or sewer utility having less than 4,500 customers or annual combined gross revenues of less than \$3 million, allow an interim or emergency rate to take effect, subject to refund or future modification, if it is determined that the interim or emergency rate is necessary to protect the municipality from financial hardship attributable to the purchase of the utility commodity sold, or the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial distress. In such cases, the commission shall waive the 45 day waiting period provided for in subsection (b) of this section and the 120 day suspension period provided for in subsection (d) of this section.

(h) The commission shall, upon written request of the governing body of a political subdivision, provide technical assistance to the governing body in its deliberations regarding a proposed rate increase.

(i) Notwithstanding any other provision, the commission has no authority or responsibility with regard to the regulation of rates, income, services, or contracts by municipally operated public utilities for services which are transmitted and sold outside of the State of West Virginia.

(j) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission over water and/or sewer utilities that are political subdivisions of the state and having at least 4,500 customers and annual gross combined revenues of \$3 million or more shall be limited to those powers enumerated in §24-2-1(b) of this code.

(k) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission does not extend over the setting and adjustment of the rates, fees, and charges of municipal power systems. The rates, fees, charges and ratemaking process of municipal power systems shall be governed by the provisions of §8-19-2a of this code.

On motion of Senator Ojeda, the following amendments to Senator Gaunch's amendment to the bill (Com. Sub. for S. B. 10) were reported by the Clerk and considered simultaneously:

On page seventeen, section one, after line one hundred sixty-seven, by inserting a new subsection, designated subsection (h), to read as follows:

(h) The commission shall have jurisdiction to ensure the Internet remains open within this state, as detailed in the West Virginia Net Neutrality Act contained in §24-9-1, et seq. of this code.;

And,

On page twenty-five, after section four-b, by inserting a new article, designated article nine, to read as follows:

ARTICLE 9. WEST VIRGINIA NET NEUTRALITY ACT.

§24-9-1. Short title.

This article shall be known as the West Virginia Net Neutrality Act.

§24-9-2. Definitions.

For the purposes of this article, unless the context clearly requires otherwise, the following terms are defined as follows:

“Broadband Internet access service” means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. The term also encompasses any service that the federal communications commission finds to be providing a functional equivalent of such a broadband Internet access service. The term also encompasses any service that is used to evade the protections set forth in this article.

“Edge provider” means any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet.

“End user” means any individual or entity that uses a broadband Internet access service.

“Mobile broadband Internet access service” means a broadband Internet service that serves end users primarily using mobile stations.

“Paid prioritization” means the management of a broadband provider’s network to directly or indirectly favor some traffic over other traffic, including the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either: (1) In exchange for consideration, monetary or otherwise, from a third party; or (2) to benefit an affiliated entity.

“Reasonable network management” means a practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the Broadband Internet Access Service.

§24-9-3. Broadband Internet access service provider requirements.

(a) A person engaged in the provision of broadband Internet access service in this state shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain internet offerings.

(b) A person engaged in the provision of broadband Internet service in this state, insofar as such a person is so engaged, may not:

(1) Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management;

(2) Impair or degrade lawful internet traffic on the basis of internet content, application, or service, or use of a nonharmful device, subject to reasonable network management;

(3) Engage in paid prioritization; or

(4) Unreasonably interfere with or unreasonably disadvantage: (A) End users' ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of their choice; or (B) edge providers' ability to make lawful content, applications, services, or devices available to end users.

(c) The Public Service Commission may waive the prohibition on paid prioritization contained in this section only if the petitioner demonstrates by clear and convincing evidence that the practice would provide some significant public interest benefit and would not harm the open nature of the Internet in this state.

§24-9-4. Consumer protection.

(a) The matters contained in this article are vitally important to the consumers of this state and the public interest. Therefore, a violation of this article is deemed to be an unfair or deceptive act or practice in violation of the West Virginia Consumer Credit and Protection Act, contained in chapter 46A of this code, and may be brought by consumers in a private civil action. The penalties and remedies contained in the West Virginia Consumer Credit and Protection Act shall apply to this article as if the entirety of chapter 46A were repeated herein.

(b) All receipts recovered on behalf of the state by the Office of the Attorney General for lawsuits related to violations of this article shall be deposited into the Broadband Enhancement Fund, created in §31G-1-5 of this code.

Following discussion,

Senator Maroney arose to a point of order that Senator Ojeda's amendments to Senator Gaunch's amendment to the bill (Com. Sub. for S. B. 10) were not germane to the bill.

Which point of order, the President ruled not well taken.

The question being on the adoption of Senator Ojeda's amendments to Senator Gaunch's amendment to the bill (Com. Sub. for S. B. 10), and on this question, Senator Ojeda demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Ojeda's amendments to Senator Gaunch's amendment to the bill rejected

The question now being on the adoption of Senator Gaunch's amendment to the bill, the same was put and prevailed.

The bill (Com. Sub. for S. B. 10), as amended, was then ordered to engrossment and third reading.

Com. Sub. for Com. Sub. for Senate Bill 258, Exempting honorably discharged veterans from fees for license to carry deadly weapons.

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

Com. Sub. for Senate Bill 267, Increasing salaries of certain state employees.

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

On motions of Senators Prezioso, Baldwin, Beach, Facemire, Jeffries, Ojeda, Plymale, Romano, Stollings, Unger, and Woelfel, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On pages three and four, section five, by striking out all of lines fifty-three through eighty-eight and inserting in lieu thereof the following:

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

<u>Cadet During Training</u>	<u>\$ 35,290</u>
<u>Cadet Trooper After Training</u>	<u>\$ 42,554</u>
<u>Trooper Second Year</u>	<u>\$ 43,562</u>
<u>Trooper Third Year</u>	<u>\$ 43,945</u>
<u>Senior Trooper</u>	<u>\$ 44,344</u>
<u>Trooper First Class</u>	<u>\$ 44,950</u>
<u>Corporal</u>	<u>\$ 45,556</u>
<u>Sergeant.....</u>	<u>\$ 49,857</u>
<u>First Sergeant.....</u>	<u>\$ 52,008</u>
<u>Second Lieutenant</u>	<u>\$ 54,158</u>
<u>First Lieutenant.....</u>	<u>\$ 56,309</u>
<u>Captain.....</u>	<u>\$ 58,460</u>
<u>Major</u>	<u>\$ 60,610</u>
<u>Lieutenant Colonel</u>	<u>\$ 62,761</u>

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION

I	\$ 43,562
II	\$ 44,344
III	\$ 44,950
IV	\$ 45,556
V	\$ 49,857
VI	\$ 52,008
VII	\$ 54,158
VIII	\$ 56,309

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

I	\$ 43,562
II	\$ 44,344
III	\$ 44,950
IV	\$ 45,556
V	\$ 49,857
VI	\$ 52,008
VII	\$ 54,158
VIII	\$ 56,309;

On pages eight and nine, section two, after line seven, by striking out the table and inserting in lieu thereof a new table to read as follows:

<u>Years</u>	<u>4th</u>	<u>3rd</u>	<u>2nd</u>	<u>A.B.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>Doc-</u>	
<u>Exp</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>	<u>A.B.</u>	<u>+ 15</u>	<u>M.A.</u>	<u>+ 15</u>	<u>+ 30</u>	<u>+ 45</u>	<u>torate</u>
0	29,129	29,818	30,084	31,527	32,288	34,055	34,816	35,577	36,338	37,373
1	29,457	30,146	30,412	32,045	32,806	34,574	35,335	36,095	36,856	37,891

<u>2</u>	<u>29,786</u>	<u>30,474</u>	<u>30,740</u>	<u>32,564</u>	<u>33,325</u>	<u>35,092</u>	<u>35,853</u>	<u>36,614</u>	<u>37,375</u>	<u>38,410</u>
<u>3</u>	<u>30,114</u>	<u>30,802</u>	<u>31,068</u>	<u>33,083</u>	<u>33,843</u>	<u>35,611</u>	<u>36,372</u>	<u>37,132</u>	<u>37,893</u>	<u>38,928</u>
<u>4</u>	<u>30,686</u>	<u>31,374</u>	<u>31,640</u>	<u>33,845</u>	<u>34,606</u>	<u>36,374</u>	<u>37,135</u>	<u>37,895</u>	<u>38,656</u>	<u>39,691</u>
<u>5</u>	<u>31,014</u>	<u>31,702</u>	<u>31,968</u>	<u>34,364</u>	<u>35,125</u>	<u>36,892</u>	<u>37,653</u>	<u>38,414</u>	<u>39,175</u>	<u>40,210</u>
<u>6</u>	<u>31,342</u>	<u>32,030</u>	<u>32,296</u>	<u>34,882</u>	<u>35,643</u>	<u>37,411</u>	<u>38,172</u>	<u>38,932</u>	<u>39,693</u>	<u>40,728</u>
<u>7</u>	<u>31,670</u>	<u>32,359</u>	<u>32,624</u>	<u>35,401</u>	<u>36,162</u>	<u>37,929</u>	<u>38,690</u>	<u>39,451</u>	<u>40,212</u>	<u>41,247</u>
<u>8</u>	<u>31,998</u>	<u>32,687</u>	<u>32,953</u>	<u>35,919</u>	<u>36,680</u>	<u>38,448</u>	<u>39,209</u>	<u>39,969</u>	<u>40,730</u>	<u>41,765</u>
<u>9</u>	<u>32,326</u>	<u>33,015</u>	<u>33,281</u>	<u>36,438</u>	<u>37,199</u>	<u>38,966</u>	<u>39,727</u>	<u>40,488</u>	<u>41,249</u>	<u>42,284</u>
<u>10</u>	<u>32,655</u>	<u>33,343</u>	<u>33,609</u>	<u>36,958</u>	<u>37,718</u>	<u>39,486</u>	<u>40,247</u>	<u>41,008</u>	<u>41,768</u>	<u>42,803</u>
<u>11</u>	<u>32,983</u>	<u>33,671</u>	<u>33,937</u>	<u>37,476</u>	<u>38,237</u>	<u>40,005</u>	<u>40,765</u>	<u>41,526</u>	<u>42,287</u>	<u>43,322</u>
<u>12</u>	<u>33,311</u>	<u>33,999</u>	<u>34,265</u>	<u>37,995</u>	<u>38,755</u>	<u>40,523</u>	<u>41,284</u>	<u>42,045</u>	<u>42,805</u>	<u>43,840</u>
<u>13</u>	<u>33,639</u>	<u>34,327</u>	<u>34,593</u>	<u>38,513</u>	<u>39,274</u>	<u>41,042</u>	<u>41,802</u>	<u>42,563</u>	<u>43,324</u>	<u>44,359</u>
<u>14</u>	<u>33,967</u>	<u>34,655</u>	<u>34,921</u>	<u>39,032</u>	<u>39,792</u>	<u>41,560</u>	<u>42,321</u>	<u>43,082</u>	<u>43,842</u>	<u>44,877</u>
<u>15</u>	<u>34,295</u>	<u>34,983</u>	<u>35,249</u>	<u>39,550</u>	<u>40,311</u>	<u>42,079</u>	<u>42,839</u>	<u>43,600</u>	<u>44,361</u>	<u>45,396</u>
<u>16</u>	<u>34,623</u>	<u>35,311</u>	<u>35,577</u>	<u>40,069</u>	<u>40,829</u>	<u>42,597</u>	<u>43,358</u>	<u>44,119</u>	<u>44,879</u>	<u>45,914</u>
<u>17</u>	<u>34,951</u>	<u>35,640</u>	<u>35,905</u>	<u>40,587</u>	<u>41,348</u>	<u>43,116</u>	<u>43,877</u>	<u>44,637</u>	<u>45,398</u>	<u>46,433</u>
<u>18</u>	<u>35,279</u>	<u>35,968</u>	<u>36,234</u>	<u>41,106</u>	<u>41,867</u>	<u>43,634</u>	<u>44,395</u>	<u>45,156</u>	<u>45,917</u>	<u>46,952</u>
<u>19</u>	<u>35,607</u>	<u>36,296</u>	<u>36,562</u>	<u>41,624</u>	<u>42,385</u>	<u>44,153</u>	<u>44,914</u>	<u>45,674</u>	<u>46,435</u>	<u>47,470</u>
<u>20</u>	<u>35,935</u>	<u>36,624</u>	<u>36,890</u>	<u>42,143</u>	<u>42,904</u>	<u>44,671</u>	<u>45,432</u>	<u>46,193</u>	<u>46,954</u>	<u>47,989</u>
<u>21</u>	<u>36,264</u>	<u>36,952</u>	<u>37,218</u>	<u>42,661</u>	<u>43,422</u>	<u>45,190</u>	<u>45,951</u>	<u>46,711</u>	<u>47,472</u>	<u>48,507</u>
<u>22</u>	<u>36,592</u>	<u>37,280</u>	<u>37,546</u>	<u>43,180</u>	<u>43,941</u>	<u>45,708</u>	<u>46,469</u>	<u>47,230</u>	<u>47,991</u>	<u>49,026</u>
<u>23</u>	<u>36,920</u>	<u>37,608</u>	<u>37,874</u>	<u>43,699</u>	<u>44,459</u>	<u>46,227</u>	<u>46,988</u>	<u>47,748</u>	<u>48,509</u>	<u>49,544</u>
<u>24</u>	<u>37,248</u>	<u>37,936</u>	<u>38,202</u>	<u>44,217</u>	<u>44,978</u>	<u>46,746</u>	<u>47,506</u>	<u>48,267</u>	<u>49,028</u>	<u>50,063</u>
<u>25</u>	<u>37,576</u>	<u>38,264</u>	<u>38,530</u>	<u>44,736</u>	<u>45,496</u>	<u>47,264</u>	<u>48,025</u>	<u>48,786</u>	<u>49,546</u>	<u>50,581</u>
<u>26</u>	<u>37,904</u>	<u>38,592</u>	<u>38,858</u>	<u>45,254</u>	<u>46,015</u>	<u>47,783</u>	<u>48,543</u>	<u>49,304</u>	<u>50,065</u>	<u>51,100</u>
<u>27</u>	<u>38,232</u>	<u>38,920</u>	<u>39,186</u>	<u>45,773</u>	<u>46,533</u>	<u>48,301</u>	<u>49,062</u>	<u>49,823</u>	<u>50,583</u>	<u>51,618</u>
<u>28</u>	<u>38,560</u>	<u>39,249</u>	<u>39,514</u>	<u>46,291</u>	<u>47,052</u>	<u>48,820</u>	<u>49,580</u>	<u>50,341</u>	<u>51,102</u>	<u>52,137</u>
<u>29</u>	<u>38,888</u>	<u>39,577</u>	<u>39,843</u>	<u>46,810</u>	<u>47,570</u>	<u>49,338</u>	<u>50,099</u>	<u>50,860</u>	<u>51,620</u>	<u>52,655</u>

<u>30</u>	<u>39,216</u>	<u>39,905</u>	<u>40,171</u>	<u>47,328</u>	<u>48,089</u>	<u>49,857</u>	<u>50,617</u>	<u>51,378</u>	<u>52,139</u>	<u>53,174</u>
<u>31</u>	<u>39,545</u>	<u>40,233</u>	<u>40,499</u>	<u>47,847</u>	<u>48,608</u>	<u>50,375</u>	<u>51,136</u>	<u>51,897</u>	<u>52,657</u>	<u>53,692</u>
<u>32</u>	<u>39,873</u>	<u>40,561</u>	<u>40,827</u>	<u>48,365</u>	<u>49,126</u>	<u>50,894</u>	<u>51,655</u>	<u>52,415</u>	<u>53,176</u>	<u>54,211</u>
<u>33</u>	<u>40,201</u>	<u>40,889</u>	<u>41,155</u>	<u>48,884</u>	<u>49,645</u>	<u>51,412</u>	<u>52,173</u>	<u>52,934</u>	<u>53,695</u>	<u>54,730</u>
<u>34</u>	<u>40,529</u>	<u>41,217</u>	<u>41,483</u>	<u>49,402</u>	<u>50,163</u>	<u>51,931</u>	<u>52,692</u>	<u>53,452</u>	<u>54,213</u>	<u>55,248</u>
<u>35</u>	<u>40,857</u>	<u>41,545</u>	<u>41,811</u>	<u>49,921</u>	<u>50,682</u>	<u>52,449</u>	<u>53,210</u>	<u>53,971</u>	<u>54,732</u>	<u>55,767</u>

;

And,

On pages twelve through fourteen, section eight-a, after line eight, by striking out the table and inserting in lieu thereof a new table to read as follows:

YearsExp.PAY GRADE

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>1,726</u>	<u>1,747</u>	<u>1,789</u>	<u>1,842</u>	<u>1,895</u>	<u>1,958</u>	<u>1,990</u>	<u>2,063</u>
<u>1</u>	<u>1,758</u>	<u>1,780</u>	<u>1,821</u>	<u>1,874</u>	<u>1,928</u>	<u>1,991</u>	<u>2,022</u>	<u>2,096</u>
<u>2</u>	<u>1,791</u>	<u>1,812</u>	<u>1,854</u>	<u>1,907</u>	<u>1,960</u>	<u>2,023</u>	<u>2,055</u>	<u>2,128</u>
<u>3</u>	<u>1,823</u>	<u>1,845</u>	<u>1,887</u>	<u>1,940</u>	<u>1,993</u>	<u>2,056</u>	<u>2,088</u>	<u>2,161</u>
<u>4</u>	<u>1,856</u>	<u>1,878</u>	<u>1,919</u>	<u>1,972</u>	<u>2,025</u>	<u>2,089</u>	<u>2,120</u>	<u>2,195</u>
<u>5</u>	<u>1,889</u>	<u>1,910</u>	<u>1,952</u>	<u>2,005</u>	<u>2,058</u>	<u>2,121</u>	<u>2,153</u>	<u>2,227</u>
<u>6</u>	<u>1,921</u>	<u>1,943</u>	<u>1,986</u>	<u>2,038</u>	<u>2,091</u>	<u>2,154</u>	<u>2,186</u>	<u>2,260</u>
<u>7</u>	<u>1,955</u>	<u>1,975</u>	<u>2,018</u>	<u>2,070</u>	<u>2,123</u>	<u>2,187</u>	<u>2,218</u>	<u>2,293</u>
<u>8</u>	<u>1,988</u>	<u>2,008</u>	<u>2,051</u>	<u>2,103</u>	<u>2,156</u>	<u>2,219</u>	<u>2,251</u>	<u>2,325</u>
<u>9</u>	<u>2,020</u>	<u>2,041</u>	<u>2,084</u>	<u>2,137</u>	<u>2,189</u>	<u>2,252</u>	<u>2,283</u>	<u>2,358</u>
<u>10</u>	<u>2,053</u>	<u>2,074</u>	<u>2,116</u>	<u>2,169</u>	<u>2,221</u>	<u>2,286</u>	<u>2,317</u>	<u>2,391</u>
<u>11</u>	<u>2,086</u>	<u>2,107</u>	<u>2,149</u>	<u>2,202</u>	<u>2,254</u>	<u>2,318</u>	<u>2,350</u>	<u>2,423</u>
<u>12</u>	<u>2,118</u>	<u>2,140</u>	<u>2,181</u>	<u>2,235</u>	<u>2,288</u>	<u>2,351</u>	<u>2,382</u>	<u>2,456</u>
<u>13</u>	<u>2,151</u>	<u>2,172</u>	<u>2,214</u>	<u>2,267</u>	<u>2,320</u>	<u>2,383</u>	<u>2,415</u>	<u>2,489</u>
<u>14</u>	<u>2,184</u>	<u>2,205</u>	<u>2,247</u>	<u>2,300</u>	<u>2,353</u>	<u>2,416</u>	<u>2,448</u>	<u>2,521</u>
<u>15</u>	<u>2,216</u>	<u>2,238</u>	<u>2,279</u>	<u>2,332</u>	<u>2,385</u>	<u>2,449</u>	<u>2,480</u>	<u>2,554</u>

<u>16</u>	<u>2,249</u>	<u>2,270</u>	<u>2,312</u>	<u>2,365</u>	<u>2,418</u>	<u>2,481</u>	<u>2,513</u>	<u>2,587</u>
<u>17</u>	<u>2,281</u>	<u>2,303</u>	<u>2,346</u>	<u>2,398</u>	<u>2,451</u>	<u>2,514</u>	<u>2,546</u>	<u>2,620</u>
<u>18</u>	<u>2,314</u>	<u>2,336</u>	<u>2,378</u>	<u>2,430</u>	<u>2,483</u>	<u>2,547</u>	<u>2,578</u>	<u>2,653</u>
<u>19</u>	<u>2,348</u>	<u>2,368</u>	<u>2,411</u>	<u>2,463</u>	<u>2,516</u>	<u>2,579</u>	<u>2,611</u>	<u>2,685</u>
<u>20</u>	<u>2,380</u>	<u>2,401</u>	<u>2,444</u>	<u>2,497</u>	<u>2,549</u>	<u>2,612</u>	<u>2,644</u>	<u>2,719</u>
<u>21</u>	<u>2,413</u>	<u>2,433</u>	<u>2,476</u>	<u>2,529</u>	<u>2,581</u>	<u>2,645</u>	<u>2,676</u>	<u>2,753</u>
<u>22</u>	<u>2,446</u>	<u>2,467</u>	<u>2,509</u>	<u>2,562</u>	<u>2,614</u>	<u>2,678</u>	<u>2,710</u>	<u>2,785</u>
<u>23</u>	<u>2,478</u>	<u>2,500</u>	<u>2,542</u>	<u>2,595</u>	<u>2,648</u>	<u>2,712</u>	<u>2,744</u>	<u>2,819</u>
<u>24</u>	<u>2,511</u>	<u>2,532</u>	<u>2,574</u>	<u>2,627</u>	<u>2,680</u>	<u>2,746</u>	<u>2,777</u>	<u>2,853</u>
<u>25</u>	<u>2,544</u>	<u>2,565</u>	<u>2,607</u>	<u>2,660</u>	<u>2,714</u>	<u>2,778</u>	<u>2,811</u>	<u>2,885</u>
<u>26</u>	<u>2,576</u>	<u>2,598</u>	<u>2,639</u>	<u>2,694</u>	<u>2,748</u>	<u>2,812</u>	<u>2,843</u>	<u>2,919</u>
<u>27</u>	<u>2,609</u>	<u>2,630</u>	<u>2,672</u>	<u>2,726</u>	<u>2,780</u>	<u>2,844</u>	<u>2,877</u>	<u>2,952</u>
<u>28</u>	<u>2,642</u>	<u>2,663</u>	<u>2,706</u>	<u>2,760</u>	<u>2,814</u>	<u>2,878</u>	<u>2,911</u>	<u>2,986</u>
<u>29</u>	<u>2,674</u>	<u>2,697</u>	<u>2,739</u>	<u>2,792</u>	<u>2,847</u>	<u>2,912</u>	<u>2,943</u>	<u>3,020</u>
<u>30</u>	<u>2,708</u>	<u>2,729</u>	<u>2,773</u>	<u>2,826</u>	<u>2,880</u>	<u>2,944</u>	<u>2,977</u>	<u>3,053</u>
<u>31</u>	<u>2,741</u>	<u>2,763</u>	<u>2,807</u>	<u>2,860</u>	<u>2,914</u>	<u>2,978</u>	<u>3,011</u>	<u>3,086</u>
<u>32</u>	<u>2,775</u>	<u>2,796</u>	<u>2,839</u>	<u>2,893</u>	<u>2,946</u>	<u>3,012</u>	<u>3,043</u>	<u>3,120</u>
<u>33</u>	<u>2,809</u>	<u>2,829</u>	<u>2,873</u>	<u>2,927</u>	<u>2,980</u>	<u>3,044</u>	<u>3,077</u>	<u>3,153</u>
<u>34</u>	<u>2,841</u>	<u>2,863</u>	<u>2,907</u>	<u>2,961</u>	<u>3,014</u>	<u>3,078</u>	<u>3,111</u>	<u>3,186</u>
<u>35</u>	<u>2,875</u>	<u>2,897</u>	<u>2,939</u>	<u>2,993</u>	<u>3,046</u>	<u>3,112</u>	<u>3,144</u>	<u>3,220</u>
<u>36</u>	<u>2,909</u>	<u>2,930</u>	<u>2,973</u>	<u>3,027</u>	<u>3,081</u>	<u>3,145</u>	<u>3,178</u>	<u>3,252</u>
<u>37</u>	<u>2,941</u>	<u>2,964</u>	<u>3,007</u>	<u>3,061</u>	<u>3,115</u>	<u>3,179</u>	<u>3,211</u>	<u>3,286</u>
<u>38</u>	<u>2,975</u>	<u>2,996</u>	<u>3,039</u>	<u>3,093</u>	<u>3,147</u>	<u>3,212</u>	<u>3,244</u>	<u>3,320</u>
<u>39</u>	<u>3,009</u>	<u>3,030</u>	<u>3,073</u>	<u>3,127</u>	<u>3,181</u>	<u>3,245</u>	<u>3,278</u>	<u>3,352</u>
<u>40</u>	<u>3,041</u>	<u>3,064</u>	<u>3,106</u>	<u>3,160</u>	<u>3,215</u>	<u>3,279</u>	<u>3,311</u>	<u>3,386</u>

Following extended discussion,

The question being on the adoption of the amendment offered by Senators Prezioso, Baldwin, Beach, Facemire, Jeffries, Ojeda, Plymale, Romano, Stollings, Unger, and Woelfel to the bill, and on this question, Senator Prezioso demanded the yeas and nays.

Senators Palumbo and Mann requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate as their spouses are public school employees.

The Chair replied that any impact on Senators Palumbo and Mann would be as members of a class of persons and that they would be required to vote.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

The nays were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—22.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senators Prezioso, Baldwin, Beach, Facemire, Jeffries, Ojeda, Plymale, Romano, Stollings, Unger, and Woelfel to the bill rejected.

On motions of Senators Prezioso, Baldwin, Facemire, Jeffries, Ojeda, Romano, Stollings, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 267) was next reported by the Clerk:

On pages eight and nine, section two, after line seven, by striking out the table and inserting in lieu thereof a new table to read as follows:

<u>Years</u>	<u>4th</u>	<u>3rd</u>	<u>2nd</u>	<u>A.B.</u>	<u>A.B.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>Doc-</u>
<u>Exp</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>		<u>+ 15</u>		<u>+ 15</u>	<u>+ 30</u>	<u>+ 45</u>	<u>torate</u>
<u>0</u>	<u>28,321</u>	<u>29,010</u>	<u>29,276</u>	<u>36,315</u>	<u>37,076</u>	<u>38,843</u>	<u>39,604</u>	<u>40,365</u>	<u>41,365</u>	<u>42,161</u>
<u>1</u>	<u>28,649</u>	<u>29,338</u>	<u>29,604</u>	<u>36,415</u>	<u>37,176</u>	<u>38,943</u>	<u>39,704</u>	<u>40,465</u>	<u>41,465</u>	<u>42,261</u>
<u>2</u>	<u>28,978</u>	<u>29,666</u>	<u>29,932</u>	<u>36,515</u>	<u>37,276</u>	<u>39,043</u>	<u>39,804</u>	<u>40,565</u>	<u>41,565</u>	<u>42,361</u>
<u>3</u>	<u>29,306</u>	<u>29,994</u>	<u>30,260</u>	<u>36,615</u>	<u>37,376</u>	<u>40,143</u>	<u>39,904</u>	<u>40,665</u>	<u>41,665</u>	<u>42,461</u>
<u>4</u>	<u>29,878</u>	<u>30,566</u>	<u>30,832</u>	<u>36,715</u>	<u>37,476</u>	<u>40,243</u>	<u>40,104</u>	<u>40,765</u>	<u>41,765</u>	<u>42,561</u>
<u>5</u>	<u>30,206</u>	<u>30,894</u>	<u>31,160</u>	<u>36,815</u>	<u>37,576</u>	<u>40,343</u>	<u>40,204</u>	<u>40,865</u>	<u>41,865</u>	<u>42,661</u>
<u>6</u>	<u>30,534</u>	<u>31,222</u>	<u>31,488</u>	<u>36,915</u>	<u>37,676</u>	<u>40,443</u>	<u>40,304</u>	<u>40,965</u>	<u>41,965</u>	<u>42,761</u>
<u>7</u>	<u>30,862</u>	<u>31,551</u>	<u>31,816</u>	<u>37,015</u>	<u>37,776</u>	<u>40,543</u>	<u>40,404</u>	<u>41,065</u>	<u>42,065</u>	<u>42,861</u>
<u>8</u>	<u>31,190</u>	<u>31,879</u>	<u>32,145</u>	<u>37,115</u>	<u>37,876</u>	<u>40,643</u>	<u>40,504</u>	<u>41,165</u>	<u>42,165</u>	<u>42,961</u>
<u>9</u>	<u>31,518</u>	<u>32,207</u>	<u>32,473</u>	<u>37,215</u>	<u>37,976</u>	<u>40,743</u>	<u>40,604</u>	<u>41,265</u>	<u>42,265</u>	<u>42,061</u>

<u>10</u>	<u>31,847</u>	<u>32,535</u>	<u>32,801</u>	<u>37,315</u>	<u>38,076</u>	<u>40,843</u>	<u>40,704</u>	<u>41,365</u>	<u>42,365</u>	<u>42,161</u>
<u>11</u>	<u>32,175</u>	<u>32,863</u>	<u>33,129</u>	<u>37,415</u>	<u>38,176</u>	<u>40,943</u>	<u>40,804</u>	<u>41,465</u>	<u>42,465</u>	<u>42,514</u>
<u>12</u>	<u>32,503</u>	<u>33,191</u>	<u>33,457</u>	<u>37,515</u>	<u>38,276</u>	<u>41,043</u>	<u>40,904</u>	<u>41,565</u>	<u>42,565</u>	<u>43,032</u>
<u>13</u>	<u>32,831</u>	<u>33,519</u>	<u>33,785</u>	<u>37,705</u>	<u>38,466</u>	<u>41,143</u>	<u>41,004</u>	<u>41,755</u>	<u>42,665</u>	<u>43,551</u>
<u>14</u>	<u>33,159</u>	<u>33,847</u>	<u>34,113</u>	<u>38,224</u>	<u>38,984</u>	<u>41,243</u>	<u>41,513</u>	<u>42,274</u>	<u>43,034</u>	<u>44,069</u>
<u>15</u>	<u>33,487</u>	<u>34,175</u>	<u>34,441</u>	<u>38,742</u>	<u>39,503</u>	<u>41,343</u>	<u>42,031</u>	<u>42,792</u>	<u>43,553</u>	<u>44,588</u>
<u>16</u>	<u>33,815</u>	<u>34,503</u>	<u>34,769</u>	<u>39,261</u>	<u>40,021</u>	<u>41,789</u>	<u>42,550</u>	<u>43,311</u>	<u>44,071</u>	<u>45,106</u>
<u>17</u>	<u>34,143</u>	<u>34,832</u>	<u>35,097</u>	<u>39,779</u>	<u>40,540</u>	<u>42,308</u>	<u>43,069</u>	<u>43,829</u>	<u>44,590</u>	<u>45,625</u>
<u>18</u>	<u>34,471</u>	<u>35,160</u>	<u>35,426</u>	<u>40,298</u>	<u>41,059</u>	<u>42,826</u>	<u>43,587</u>	<u>44,348</u>	<u>45,109</u>	<u>46,144</u>
<u>19</u>	<u>34,799</u>	<u>35,488</u>	<u>35,754</u>	<u>40,816</u>	<u>41,577</u>	<u>43,345</u>	<u>44,106</u>	<u>44,866</u>	<u>45,627</u>	<u>46,662</u>
<u>20</u>	<u>35,127</u>	<u>35,816</u>	<u>36,082</u>	<u>41,335</u>	<u>42,096</u>	<u>43,863</u>	<u>44,624</u>	<u>45,385</u>	<u>46,146</u>	<u>47,181</u>
<u>21</u>	<u>35,456</u>	<u>36,144</u>	<u>36,410</u>	<u>41,853</u>	<u>42,614</u>	<u>44,382</u>	<u>45,143</u>	<u>45,903</u>	<u>46,664</u>	<u>47,699</u>
<u>22</u>	<u>35,784</u>	<u>36,472</u>	<u>36,738</u>	<u>42,372</u>	<u>43,133</u>	<u>44,900</u>	<u>45,661</u>	<u>46,422</u>	<u>47,183</u>	<u>48,218</u>
<u>23</u>	<u>36,112</u>	<u>36,800</u>	<u>37,066</u>	<u>42,891</u>	<u>43,651</u>	<u>45,419</u>	<u>46,180</u>	<u>46,940</u>	<u>47,701</u>	<u>48,736</u>
<u>24</u>	<u>36,440</u>	<u>37,128</u>	<u>37,394</u>	<u>43,409</u>	<u>44,170</u>	<u>45,938</u>	<u>46,698</u>	<u>47,459</u>	<u>48,220</u>	<u>49,255</u>
<u>25</u>	<u>36,768</u>	<u>37,456</u>	<u>37,722</u>	<u>43,928</u>	<u>44,688</u>	<u>46,456</u>	<u>47,217</u>	<u>47,978</u>	<u>48,738</u>	<u>49,773</u>
<u>26</u>	<u>37,096</u>	<u>37,784</u>	<u>38,050</u>	<u>44,446</u>	<u>45,207</u>	<u>46,975</u>	<u>47,735</u>	<u>48,496</u>	<u>49,257</u>	<u>50,292</u>
<u>27</u>	<u>37,424</u>	<u>38,112</u>	<u>38,378</u>	<u>44,965</u>	<u>45,725</u>	<u>47,493</u>	<u>48,254</u>	<u>49,015</u>	<u>49,775</u>	<u>50,810</u>
<u>28</u>	<u>37,752</u>	<u>38,441</u>	<u>38,706</u>	<u>45,483</u>	<u>46,244</u>	<u>48,012</u>	<u>48,772</u>	<u>49,533</u>	<u>50,294</u>	<u>51,329</u>
<u>29</u>	<u>38,080</u>	<u>38,769</u>	<u>39,035</u>	<u>46,002</u>	<u>46,762</u>	<u>48,530</u>	<u>49,291</u>	<u>50,052</u>	<u>50,812</u>	<u>51,847</u>
<u>30</u>	<u>38,408</u>	<u>39,097</u>	<u>39,363</u>	<u>46,520</u>	<u>47,281</u>	<u>49,049</u>	<u>49,809</u>	<u>50,570</u>	<u>51,331</u>	<u>52,366</u>
<u>31</u>	<u>38,737</u>	<u>39,425</u>	<u>39,691</u>	<u>47,039</u>	<u>47,800</u>	<u>49,567</u>	<u>50,328</u>	<u>51,089</u>	<u>51,849</u>	<u>52,884</u>
<u>32</u>	<u>39,065</u>	<u>39,753</u>	<u>40,019</u>	<u>47,557</u>	<u>48,318</u>	<u>50,086</u>	<u>50,847</u>	<u>51,607</u>	<u>52,368</u>	<u>53,403</u>
<u>33</u>	<u>39,393</u>	<u>40,081</u>	<u>40,347</u>	<u>48,076</u>	<u>48,837</u>	<u>50,604</u>	<u>51,365</u>	<u>52,126</u>	<u>52,887</u>	<u>53,922</u>
<u>34</u>	<u>39,721</u>	<u>40,409</u>	<u>40,675</u>	<u>48,594</u>	<u>49,355</u>	<u>51,123</u>	<u>51,884</u>	<u>52,644</u>	<u>53,405</u>	<u>54,440</u>
<u>35</u>	<u>40,049</u>	<u>40,737</u>	<u>41,003</u>	<u>49,113</u>	<u>49,874</u>	<u>51,641</u>	<u>52,402</u>	<u>53,163</u>	<u>53,924</u>	<u>54,959</u>

Following discussion,

The question being on the adoption of amendment offered by Senators Prezioso, Baldwin, Facemire, Jeffries, Ojeda, Romano, Stollings, and Woelfel to the bill, and on this question, Senator Blair demanded the yeas and nays.

Senators Palumbo and Mann requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate as their spouses are public school employees.

The Chair replied that any impact on Senators Palumbo and Mann would be as members of a class of persons and that they would be required to vote.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Prezioso, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Arvon, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—22.

Absent: Azinger—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Prezioso, Baldwin, Facemire, Jeffries, Ojeda, Romano, Stollings, and Woelfel to the bill rejected.

The bill (Com. Sub. for S. B. 267) was then ordered to engrossment and third reading.

Com. Sub. for Senate Bill 268, Eliminating requirement that certain agencies purchase commodities produced on institutional farms.

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

Senate Bill 324, Removing restrictions where certain traditional lottery games may be played.

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

Senate Bill 345, Authorizing DNR establish procedures and fee schedule for limited permit hunts.

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

Senate Bill 350, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State.

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

Senate Bill 357, Relating generally to limited video lottery.

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

Com. Sub. for Senate Bill 386, Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission.

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

Senate Bill 430, Encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs.

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

The Senate proceeded to the tenth order of business.

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

Com. Sub. for Senate Bill 244, Specifying conditions for unlawful possession of firearm at school-sponsored activities.

Senate Bill 322, Relating to employees of Department of Agriculture.

Senate Bill 343, Limiting expenses in preparing list for notice to redeem.

Senate Bill 364, Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle.

Senate Bill 400, Prohibiting state licensing boards from hiring lobbyists.

And,

Eng. Com. Sub. for House Bill 4020, Making technical corrections in the code when referencing chapter 49.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Cline, unanimous consent being granted, it was ordered that the Journal show had Senator Cline been present in the chamber on Wednesday, January 31, 2018, she would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill 46, Engrossed Committee Substitute for Senate Bill 71, Engrossed Committee Substitute for Senate Bill 184, Engrossed Committee Substitute for Senate Bill 237, Engrossed Senate Bill 242, Engrossed Committee Substitute for Senate Bill 327, Engrossed Senate Bill 385, and Engrossed Senate Bill 388.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 1:57 p.m., the Senate adjourned until tomorrow, Friday, February 2, 2018, at 11 a.m.

SENATE CALENDAR

Friday, February 02, 2018
11:00 AM

THIRD READING

- Eng. Com. Sub. for S. B. 10 - Relating generally to PSC jurisdiction (original similar to HB4355)
- Eng. Com. Sub. for Com. Sub. for S. B. 258 - Exempting honorably discharged veterans from fees for license to carry deadly weapons
- Eng. Com. Sub. for S. B. 267 - Increasing salaries of certain state employees (original similar to HB4145)
- Eng. Com. Sub. for S. B. 268 - Eliminating requirement that certain agencies purchase commodities produced on institutional farms (original similar to HB4143)
- Eng. S. B. 324 - Removing restrictions where certain traditional lottery games may be played (original similar to HB4409)
- Eng. S. B. 345 - Authorizing DNR establish procedures and fee schedule for limited permit hunts
- Eng. S. B. 350 - Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State
- Eng. S. B. 357 - Relating generally to limited video lottery (original similar to HB4303)
- Eng. Com. Sub. for S. B. 386 - Decreasing and increasing appropriations from Treasury to Higher Education Policy Commission (original similar to HB4388)
- Eng. S. B. 393 - Relating to compensation and composition of WV Racing Commission
- Eng. S. B. 430 - Encouraging collaborative agreements between community and technical colleges and federally registered apprenticeship programs

SECOND READING

- Com. Sub. for S. B. 244 - Specifying conditions for unlawful possession of firearm at school-sponsored activities (original similar to HB4139)
- S. B. 322 - Relating to employees of Department of Agriculture
- S. B. 343 - Limiting expenses in preparing list for notice to redeem

- S. B. 364 - Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle
- S. B. 400 - Prohibiting state licensing boards from hiring lobbyists - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 4020 - Making technical corrections in the code when referencing chapter 49 - (Com. amend. and title amend. pending)

FIRST READING

- Com. Sub. for S. B. 102 - Creating WV Uniform Fiduciary Access to Digital Assets Act (original similar to HB4209)
- Com. Sub. for S. B. 181 - Authorizing MAPS promulgate legislative rules (original similar to HB4097)
- S. B. 425 - Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan
- S. B. 462 - Establishing contribution holiday for public pension plans funded at 130 percent or more
- S. B. 463 - Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture
- Eng. Com. Sub. for H. B. 4013 - Clarifying venue in West Virginia state courts as it applies to nonresidents of the state - (Com. amend. and title amend. pending)