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VOLUME II



NOTE: The second volume continues with Journal proceedings proper (page 1333) of February 28 and concludes with the proceedings of March 10 ending with page 2674 of the Regular Session.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 282) passed with its title.

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

Eng. Senate Bill 295, Relating to Local Powers Act.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 295 pass?”

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

The nays were: Beach, Prezioso, Romano, and Stollings—4.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 295) passed with its title.

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

Com. Sub. for Senate Bill 360, Clarifying oil and gas permits not be on flat well royalty leases.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

There being no amendments offered,

The bill was ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 360 was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 360 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. 360) passed.

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

Eng. Com. Sub. for Senate Bill 360—A Bill to amend and reenact §22-6-8 of the Code of West Virginia, 1931, as amended, relating to flat well royalty leases generally; modifying the permit issuance prohibition from one-eighth interest of the total amount paid to or received at the well head for oil and gas extracted to not less than one-eighth of the gross proceeds free from any deduction for post-production expenses; providing that a permit applicant may file with its application an affidavit which certifies that the affiant is authorized by the owner of the working interest in the well to tender to the owner of the oil or gas a certain royalty of the gross proceeds, free from certain deductions, received at the first

point of sale to an unaffiliated third-party purchaser in an arm's length transaction.

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

Eng. Com. Sub. for Senate Bill 401, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders.

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

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 401 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. 401) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 402, Creating exemption from certain contract and common carrier laws for motor vehicles.

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

The nays were: Palumbo—1.

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 Com. Sub. for S. B. 402) passed with its title.

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

Eng. Com. Sub. for Senate Bill 403, Licensing advance deposit wagering.

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, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Facemire, Prezioso, Romano, and Smith—5.

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. 403) passed with its title.

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

Eng. Com. Sub. for Senate Bill 419, Establishing classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory.

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. 419) passed with its title.

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

Eng. Com. Sub. for Senate Bill 421, Relating to crossbow hunting.

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. 421) passed with its title.

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

Eng. Com. Sub. for Senate Bill 432, Relating to municipal home rule.

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

Pending discussion,

(Senator Ferns in the Chair.)

The question being “Shall Engrossed Committee Substitute for Senate Bill 432 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Woelfel—29.

The nays were: Baldwin, Facemire, Jeffries, and Romano—4.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members present and voting having voted in the affirmative, Senator Ferns declared the bill (Eng. Com. Sub. for S. B. 432) passed.

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

Eng. Com. Sub. for Senate Bill 432—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; making legislative findings; establishing the Municipal Home Rule Pilot Program as a

permanent program identified as the Municipal Home Rule Program; providing for continuation of plans and amendments approved during Municipal Home Rule Pilot Program; providing that any ordinance, act, resolution, rule, or regulation enacted pursuant to the Municipal Home Rule Pilot Program shall continue until repealed; expanding eligibility to participate in home rule to additional municipalities; establishing annual assessment for participants in Municipal Home Rule Program; establishing penalty for failing to timely pay annual assessment; creating special revenue account for Municipal Home Rule Board; authorizing certain expenditures from special revenue fund subject to appropriation by the Legislature and providing an exception; providing suspension of annual assessment when certain conditions are met; clarifying the authority of the Municipal Home Rule Board; requiring Municipal Home Rule Board to reject any application or amendment that does not reasonably demonstrate municipality's ability to manage related costs or liabilities; requiring publication of administrative rules of Municipal Home Rule Board on its website and made available to the public in print upon request; clarifying procedures related to submitting amendment to approved plan; requiring certain notice prior to proposing or amending a plan; requiring a copy of the notice be sent to the board and cabinet secretary of every state department; requiring public hearing and notice of hearing prior to municipality proposing a plan or amendment; amending certain prohibitions on the powers and duties of municipalities under home rule; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws governing professional licensing or certification of employees; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing enforcement of building codes or fire codes; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to West Virginia Workplace Freedom Act and Labor-Management Relations Act; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to federal

laws, regulations, or standards related to transportation that would affect state's required compliance or jeopardize federal funding; prohibiting municipalities from enacting any ordinance, act, resolution, rule, or regulation that imposes duties on another governmental entity; providing certain exceptions to that prohibition; modifying reporting requirements; eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019; and redefining the term "distribute".

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

Eng. Com. Sub. for Senate Bill 442, Establishing universal forms and deadlines when submitting prior authorization electronically.

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

Pending discussion,

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

The question being "Shall Engrossed Committee Substitute for Senate Bill 442 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. 442) passed with its title.

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

Com. Sub. for Senate Bill 445, Allowing DOH acquire real or personal property for utility accommodation.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

On page two, after line thirty-eight, by inserting a new article, designated article two-e, to read as follows:

ARTICLE 2E. DIG ONCE POLICY.

§17-2E-1. Legislative findings.

(a) The Legislature finds that it is in the public interest to accommodate telecommunications facilities on Division of Highways right-of-way when the use of the right-of-way does not adversely affect the safety of the traveling public or impair the highway or its aesthetic quality or conflict with any federal, state or local laws, rules, regulations or policies.

(b) The Legislature further finds that a broadband connection is an essential part of developing the state and local economies, enhancing the transportation system and creating a safer and more secure environment for our citizens.

(c) The Legislature further finds that expanding telecommunication facilities will allow the state to participate in the E-Rate Program of funding for digital education in America to provide reliable services opportunities for education and training.

(d) The Legislature further finds that fast, reliable broadband connections enhance telemedical opportunities for our rural doctors and hospitals, linking them to our major medical centers.

Thereby overcoming distance barriers, and improving access to medical services that often are not consistently available in rural communities.

(e) The Legislature further finds that instituting a dig once policy encourages telecommunications carriers to coordinate installation of broadband conduit to minimize costs to the carriers and minimize disruption and inconvenience to the traveling public.

§17-2E-2. Definitions.

For the purposes of this article:

“Broadband conduit” or “conduit” means a conduit, innerduct or microduct for fiber optic cables that support facilities for broadband service.

“Longitudinal access” means access to or the use of any part of a right-of-way that extends generally parallel to the traveled way.

“Permit” means an encroachment permit issued by the West Virginia Division of Highways that specifies the requirements and conditions for performing work in a right-of-way.

“Right-of-way” means land, property or any interest therein acquired or controlled by the West Virginia Division of Highways for transportation facilities or other transportation purposes or specifically acquired for utility accommodation.

“Telecommunications facility” means any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system or device that is used to transmit, receive, produce or distribute a signal for telecommunications purposes via wireless, wireline, electronic or optical means.

“Telecommunications carrier” means a telecommunications provider as determined by the Public Service Commission of West Virginia or that meets the definition of telecommunications carrier

with respect to the Federal Communications Commission, as contained in 47 U.S.C. §153

“Utility facility” has the meaning ascribed to it in §17-2A-17a of this code.

“Wireless access” means access to and use of a right-of-way for the purpose of constructing, installing, maintaining, using or operating telecommunications facilities for wireless telecommunications.

§17-2E-3. Use of rights-of-way.

(a) Before granting longitudinal access or wireless access to a right-of-way the Division of Highways shall first enter into an agreement with a telecommunications carrier that is competitively neutral and nondiscriminatory as to other telecommunications carriers. Upon receipt of any required approval or concurrence by the Federal Highway Administration the division may issue a permit granting access under this section: *Provided*, That the Division of Highways shall comply with all applicable federal regulations with respect to approval of an agreement, including but not limited to 23 C.F.R. § 710.403 and 23 C.F.R. §710.405. The agreement shall be approved by the West Virginia Commissioner of Highways in order to be effective and, without limitation:

(1) Specify the terms and conditions for renegotiation of the agreement;

(2) Set forth the maintenance requirements for each telecommunications facility;

(3) Be nonexclusive; and

(4) Be for a term of not more than 30 years.

(b) Unless specifically provided for in an agreement entered into pursuant to this subsection (a) of this section, the West Virginia Division of Highways may not grant a property interest in a right-of-way pursuant to this article.

(c) A telecommunications carrier shall compensate the Division of Highways for access to a right-of-way for the construction, installation and maintenance of telecommunication facilities, the use of spare conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section. The compensation must be, without limitation:

(1) At fair market value;

(2) Competitively neutral;

(3) Nondiscriminatory;

(4) Open to public inspection;

(5) Calculated based on the geographic region of this State, taking into account the population and the impact on private right-of-way users in the region;

(6) Paid in cash or with in-kind compensation, or a combination of cash and in-kind compensation;

(7) Paid in a lump-sum payment or in annual installments, as agreed to by the telecommunications carrier and the Division of Highways.

(d) The division may consider adjustments for areas the division determines, in conjunction with the Broadband Enhancement Council, are unserved or underserved areas.

(e) For the purpose of determining the amount of compensation a telecommunications carrier must pay the Division of Highways for the use of spare conduit or excess conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section, the division shall:

(1) Conduct an analysis once every 5 years, in accordance with the rules, policies or guidelines of the Division of Highways, to

determine the fair market value of a right-of-way to which access has been granted pursuant to this section; and

(2) If compensation is paid in-kind, determine the fair market value of the in-kind compensation based on the incremental costs for the installation of conduit and related facilities.

(e) The value of in-kind compensation or a combination of money and in-kind compensation must be equal to or greater than the amount of monetary compensation that the West Virginia Division of Highways would charge if the compensation were paid solely with money.

§17-2E-4. Highway safety.

(a) The West Virginia Division of Highways, in its sole discretion, may deny any longitudinal access or wireless access if such access would compromise the safe, efficient and convenient use of any road, route, highway or interstate in this State for the traveling public.

(b) Any longitudinal access or wireless access to a right-of-way granted by the Division of Highways pursuant to this article does not abrogate, limit, supersede or otherwise affect access granted or authorized pursuant to the division's rules, policies and guidelines related to accommodation of utilities on highways right-of-way and adjustment and relocation of utility facilities on highway projects.

§17-2E-5. Joint use.

(a) The Division of Highways shall provide for the proportionate sharing of costs between telecommunications carriers for joint trenching or trench sharing based on the amount of conduit innerduct space or excess conduit that is authorized in the agreements entered into pursuant to this article. If the division plans to use the trench it shall pay its proportional share unless it is utilizing the trench as in-kind payment for use of the right-of-way.

(b) Upon application for a permit, the carrier will notify, by email, the West Virginia Broadband Enhancement Council and all

other carriers on record with the West Virginia Broadband Enhancement Council of the application. Other carriers have 30 calendar days to notify the applicant if they wish to share the applicant's trench. This requirement extends to all underground construction technologies.

(c) The carrier shall also meet the following conditions for a permit:

(1) The telecommunications carrier will be required to place, at its sole expense, a Class II legal advertisement, in accordance with §59-3-2(a) of this code, and of a form and content approved by the Division of Highways, in the local project area newspaper, in the Charleston newspaper, on industry and the Division of Highways websites, and within other pertinent media, announcing the general scope of the proposed installation within the right-of-way and providing competing telecommunications carriers the opportunity to timely express an interest in installing additional telecommunication facilities during the initial installation. The legal advertisement is to run at least two consecutive weeks, and the telecommunications carrier is to notify the division of any interest of other parties received.

(2) If a competing telecommunications carrier expresses interest in participating in the project, an agreement between the two (or more) telecommunications carriers will be executed by those entities, outlining the responsibilities and financial obligations of each, with respect to the installation within the right-of-way. A copy of the executed agreement shall be provided to the Division of Highways.

(3) The telecommunications carrier that placed the legal advertisement is responsible for resolving in good faith all disputes between any competing telecommunications carriers that timely responded to the advertisement and that wishes to install facilities within the same portion of the rights-of-way to be occupied. Should a dispute arise between the initial telecommunications carrier and a competing telecommunications carrier, the initial telecommunications carrier will attempt to mediate the dispute. Any dispute that is not resolved by the telecommunications carriers

shall be adjudicated by the Public Service Commission of West Virginia.

(d) If two or more telecommunications carriers are required or authorized to share a single trench, each carrier in the trench must share the cost and benefits of the trench in a fair, reasonable, competitively neutral and nondiscriminatory manner. This requirement extends to all underground construction technologies.

§17-2E-6. Monetary and in-kind compensation.

(a) All monetary compensation collected by the Division of Highways pursuant to this article shall be deposited in the State Road Fund.

(b) In-kind compensation paid to the West Virginia Division of Highways under an agreement entered into pursuant to this article may include, without limitation:

(1) Conduit or excess conduit;

(2) Innerduct;

(3) Dark fiber;

(4) Access points;

(5) Telecommunications equipment or services;

(6) Bandwidth; and

(7) Other telecommunications facilities as a component of the present value of the trenching.

(c) The West Virginia Division of Highways shall value any in-kind compensation based on fair market value at the time of installation or review.

(d) In-kind compensation paid to the Division of Highways may be disposed of if both of the following conditions are met:

(1) The telecommunications facility received as in-kind payment has not been used within 10 years of its installation;

(2) The Commissioner of the Division of Highways determines that the division does not have an immediately foreseeable need for the telecommunications facility.

(e) Upon determining that it is appropriate to dispose of the telecommunications facility, the division shall determine its current fair market value. The division shall offer the provider or providers who made the in-kind payment the option to purchase any telecommunications facility obtained from such provider. If the provider or providers do not purchase the telecommunications facility, it shall be offered for public auction in the same manner as the division auctions excess right-of-way.

§17-2E-7. Multiple carriers in a single trench.

(a) If the Division of Highways enters into an agreement with two or more telecommunications carriers, a consortium or other entity whose members, partners or other participants are two or more telecommunications carriers, or, if the division requires or allows two or more telecommunications carriers to share a single trench, the agreements entered into pursuant to this article shall require that the telecommunications carriers share the obligation of compensating the Division of Highways on a fair, reasonable and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications carrier from the trench, conduits and other telecommunications facilities installed under the agreements.

(b) The provisions of §17-2E-7(a) of this code do not prevent the Division of Highways from requiring every participating telecommunications carrier to bear joint and several liability for the obligations owed to the West Virginia Division of Highways under the agreements.

(c) Any agreement requiring two or more telecommunications carriers to share the obligation of compensating the Division of Highways shall provide the division the right to review and audit

the records and contracts of and among the participating carriers to ensure compliance with §17-2E-7(a) of this code.

§17-2E-8. Existing policies.

(a) The requirements set forth in this article do not alter existing rules, policies, and procedures relating to other utility facilities within a right-of-way or for accommodating utility facilities or other facilities under the control of the Division of Highways.

(b) The Division of Highways may consider the financial and technical qualifications of a telecommunications carrier when determining specific insurance requirements for contractors authorized to enter a right-of-way to construct, install, inspect, test, maintain or repair telecommunications facilities with longitudinal access or wireless access to the right-of-way.

(c) If the Division of Highways authorizes longitudinal access, wireless access or the use of and access to conduit or related facilities of the division for construction and installation of a telecommunications facility, the division may require an approved telecommunications carrier to install the telecommunications facility in the same general location as similar facilities already in place, coordinate their planning and work with other contractors performing work in the same geographic area, install in a joint trench when two or more telecommunications carriers are performing installations at the same time and equitably share costs between such carriers.

(d) The placement, installation, maintenance, repair, use, operation, replacement and removal of telecommunications facilities with longitudinal access or wireless access to a right-of-way or that use or access conduit or related facilities of the division shall be accommodated only when in compliance with this code and West Virginia Division of Highways rules, policies and guidelines.

(e) Access to a right-of-way must be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq., as amended.

Following discussion,

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

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 445 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 445 pass?"

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

The nays were: Rucker—1.

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. 445) passed.

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

Eng. Com. Sub. for Senate Bill 445—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-17a; to amend said code by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6, §17-2E-7 and §17-2E-8; to amend said code by adding thereto two new sections, designated §17-4-17b and §17-4-17e; and to amend said code by adding thereto a

new section, designated §24-2-20, all relating to public utilities; creating new legislative findings; defining terms; providing for longitudinal access on Division of Highways rights-of-way; setting forth terms for certain agreements including how they must relate to other telecommunications carriers; requiring the Division of Highways comply with certain federal requirements as to fair market value and obtaining certain Federal Highway Administration approvals; setting forth requirements for fair and reasonable compensation for access to the right-of-way; authorizing compensation to be monetary, in-kind, or a combination of both; providing for reevaluation of the compensation every five years; providing that the Division of Highways has sole discretion to deny access if the safe, efficient and convenient use of highway, road or interstate would be compromised; providing that the access granted herein does not affect previous access granted by the division; promoting joint use and proportionate cost sharing; requiring a carrier seeking a permit to notify the Broadband Enhancement Council and other carriers of record of the permit application; setting forth notice requirements; providing that a carrier seeking the permit must resolve any disputes among other carriers seeking access; providing that the Public Service Commission will resolve disputes the carriers are not able to resolve; requiring all carriers sharing a trench to share the cost and benefits; requiring the division deposit any compensation collected for access to its right-of-way be deposited in the State Road Fund; authorizing in-kind compensation and listing allowable telecommunications facilities for in-kind payment; requiring the division to value in-kind compensation at fair market value; providing that in-kind compensation may be disposed of after 10 years if it is not being used; giving the carrier providing the in-kind compensation right of first refusal; providing for public auction in certain circumstances; providing that multiple carriers in the same trench have obligation to compensate the division; allowing the division to hold each carrier jointly and severally liable for obligations owed to the division; requiring carriers allow the division to audit records and contracts to ensure compliance; providing that existing policies, rules and procedures relating to other utilities within the right-of-way are not altered by this act; allowing the division to

consider the financial and technical qualifications of a carrier when setting insurance requirements; allowing the division to require carriers to install telecommunications in the same general location, coordinate planning and work with other contractors in the same area; requiring placement, installation, maintenance, repair, use, operation and related activities on the right-of-way be in compliance with the division's rules, policies and guidelines; and requiring that access to a right-of-way be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq.; establishing a method by which the Commissioner of the Division of Highways may acquire certain rights-of-way and easements for the purpose of increasing public access to utilities; establishing a procedure for the Division of Highways to lease acquisitions to utilities for fair market value; and establishing a cost-sharing procedure for determining how relocation costs are to be paid by the utility.

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

Eng. Com. Sub. for Senate Bill 448, Relating generally to professional associations.

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. 448) passed with its title.

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

Eng. Senate Bill 452, Exempting hunting license information from public disclosure.

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. S. B. 452) passed with its title.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 472, Providing funds to DHHR for local boards of health employee pay raises.

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 Com. Sub. for S. B. 472) passed with its title.

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

Eng. Senate Bill 485, Terminating Workers Compensation Debt Reduction Fund assessment on self-insured employers.

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. S. B. 485) passed with its title.

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

Eng. Com. Sub. for Senate Bill 504, Excluding seasonal amusement park workers from definition of “employee”.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 504 pass?”

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

The nays were: Ojeda—1.

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. 504) passed with its title.

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

Eng. Com. Sub. for Senate Bill 508, Establishing State Trail Authority.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, 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. 508) passed with its title.

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

Eng. Com. Sub. for Senate Bill 510, Designating hospitals for stroke treatment.

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. 510) passed.

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

Eng. Com. Sub. for Senate Bill 510—A Bill to amend and reenact §16-5B-18 of the Code of West Virginia, 1931, as amended, relating to designation of hospitals for stroke treatment; adding a designation as a thrombectomy-capable stroke center; modifying the makeup of the advisory committee; eliminating rulemaking authority; providing for a database; and prohibiting certain inspections of hospitals conducted by the Department of Health and Human Resources.

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

Eng. Senate Bill 530, Requiring Secretary of State provide database for registered corporations and sole proprietorship.

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. S. B. 530) passed with its title.

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

Eng. Senate Bill 531, Eliminating required waiting period for municipal court notifications to DMV.

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. S. B. 531) passed with its title.

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

Eng. Com. Sub. for Senate Bill 534, Increasing penalty for tobacco-related offenses on public school property.

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, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Azinger—1.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 534) passed with its title.

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

Eng. Com. Sub. for Senate Bill 548, Authorizing county commissions to pay election officials.

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

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

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

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

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**§3-1-44. Compensation of election officials; expenses.**

(a) Each ballot commissioner is to be paid a sum, to be fixed by the county commission, ~~not exceeding \$125~~ for each day he or she serves as ballot commissioner, but in no case may a ballot commissioner receive allowance for more than 10 days' services for any one primary, general or special election.

(b) Each commissioner of election and poll clerk is to be paid a sum, to be fixed by the county commission, ~~not exceeding \$125~~ for one day's services for attending the school of instruction for election officials if the commissioner or poll clerk provides at least one day's service during an election and a sum ~~not exceeding \$175~~ for his or her services at any one election: *Provided*, That each commissioner of election and poll clerk is to be paid a sum ~~not exceeding \$175~~ for his or her services at any of the three special elections described in §3-1-44(f) of this code.

(c) Each alternate commissioner of election and poll clerk may be paid a sum, to be fixed by the county commission, ~~not exceeding \$50~~ for one day's services for attending the school of instruction for election officials: *Provided*, That no alternate may be eligible for compensation for election training unless the alternate is subsequently appointed as an election official or is instructed to attend and actually attends training as an alternate and is available to serve on election day.

(d) The commissioners of election or poll clerks obtaining and delivering the election supplies, as provided in §3-1-24 of this code, and returning them, as provided in §3-5-1 *et seq.* and §3-6-1 *et seq.* of this code, are to be paid an additional sum, fixed by the county commission, ~~not exceeding \$125~~ for his or her services pursuant to this subsection at any one election. In addition, he or she is to be paid mileage up to the rate of reimbursement authorized by the travel management rule of the Department of Administration for each mile necessarily traveled in the performance of his or her services.

(e) The compensation of election officers, cost of printing ballots and all other expenses incurred in holding and making the return of elections, other than the three special elections described in §3-1-44(f) of this code, are to be audited by the county commission and paid out of the county treasury.

(f) All persons within a class of election officials, as classified in this section, shall be paid the same amount within the county.

(g) The compensation of election officers, cost of printing ballots, and all other reasonable and necessary expenses in holding and making the return of a special election for the purpose of taking the sense of the voters on the question of calling a constitutional convention, of a special election to elect members of a constitutional convention, and of a special election to ratify or reject the proposals, acts, and ordinances of a constitutional convention are obligations of the state incurred by the ballot commissioners, clerks of the circuit courts, clerks of the county commissions, and county commissions of the various counties as agents of the state. All expenses of these special elections are to be audited by the Secretary of State. The Secretary of State shall prepare and transmit to the county commissions forms on which the county commissions shall certify all expenses of these special elections to the Secretary of State. If satisfied that the expenses as certified by the county commissions are reasonable and were necessarily incurred, the Secretary of State shall requisition the necessary warrants from the Auditor of the state to be drawn on the state Treasurer and shall mail the warrants directly to the vendors of the special election services, supplies, and facilities.

(h) Notwithstanding the authority granted to county commissions to set compensation for election officials in this section, the Secretary of State may set maximum rates of compensation of the election officials identified in this section at any election for which the obligations incurred by the ballot commissioners, clerks of the county commissions, and county commissions of the various counties are determined to be obligations of the state.

§3-1-48. Legislative findings; State Election Fund; loans to counties; availability of funds; repayment of loans; grants to counties for election systems.

(a) *Legislative findings.* — The “Help America Vote Act of 2002”, PL 107-252, 42 U.S.C. §15301, *et seq.*, provides funding so that all states will be able to implement some form of electronic voting system to replace punch card and lever machines by 2006. The new voting systems must meet several requirements including notifying the voter of over votes and permitting each voter to review his or her ballot and correct errors before casting the vote. The limited, finite funding available to the state will not be sufficient to meet current and future needs for equipment and services as equipment needs to be obtained, repaired or replaced as technology changes. It is the intent of the Legislature to maximize the available funds by establishing a no-interest loan program to assist any county, regardless of its current voting system, in purchasing necessary electronic voting equipment and services. As the loans are repaid funds will continue to be available to meet future needs. It is not the intent of the Legislature to mandate any technology for voting systems to be utilized in this state and this section is intended only to establish terms and conditions for providing loan assistance to counties in accordance with the provisions of this section.

(b) *State Election Fund.* — The special revenue account created in the State Treasury and known as the “State Election Fund” account is continued. Expenditures from the account shall be used by the Secretary of State for the administration of this chapter in accordance with the provisions of 42 U.S.C. §15301, *et seq.*, the Help America Vote Act of 2002, PL 107-252, in accordance with the provisions of article eleven, chapter four of this code.

(c) *Establishment of special revenue account.* — There is created in the State Treasury a special revenue revolving fund account known as the “county assistance voting equipment fund” which shall be an interest-bearing account. The fund shall consist of an initial transfer not to exceed \$8,500,000 from the State Election Fund established under subsection (b) of this section

pursuant to legislative appropriation; any future funds received from the federal government under the “Help America Vote Act of 2002”, PL 107-252, 42 U.S.C. §15301, *et seq.*, or subsequent acts providing funds to states to obtain, modify or improve voting equipment and obtain necessary related services including voting systems, technology and methods for casting and counting votes; any funds appropriated by the Legislature or transferred by any public agency as contemplated or permitted by applicable federal or state law; and any accrued interest or other return on the moneys in the fund. The balance remaining in the fund at the end of each fiscal year shall remain in the fund and not revert to the State General Revenue Fund.

(d) *Use of funds.* — The money in the fund shall be used only in the manner and for the purposes prescribed in this section. Notwithstanding any provision of law to the contrary, funds in the county assistance voting equipment fund may not be designated or transferred for any purpose other than those set forth in this section.

(e) *Administration of the fund.* — The Secretary of State shall administer the fund with the approval of the State Election Commission.

(f) *Investment of fund.* — The moneys of the fund shall be invested pursuant to article six, chapter twelve of this code and in such a manner that sufficient moneys are available as needed for loans authorized under this section.

(g) *Loans to counties.* — The county assistance voting equipment fund shall be used to make no-interest loans to counties to obtain, modify or replace voting equipment, software and necessary related services including voting systems, technology and methods for casting and counting votes: *Provided*, That any county commission that purchased an electronic voting system prior to November 13, 2004, is eligible to apply for matching funds under this section to upgrade the system: *Provided, however*, That matching funds available for an upgrade shall not exceed the amount available under subdivision (1) of this subsection for the purchase of a new electronic voting system under the Secretary of

State's authorized contract. The loans shall be made under the following terms and conditions:

(1) The State Election Commission shall, subject to availability of funds, loan no more than fifty percent of the cost of the voting equipment or services to any county commission: *Provided*, That a portion or all of the county matching requirement may be waived in limited circumstances as determined by the State Election Commission pursuant to this section.

(2) The county commission shall provide sufficient documentation to establish to the satisfaction of the State Election Commission that the county commission has at least 50 percent of the money necessary to obtain the voting equipment, software or services for which the loan is sought.

(3) The county commission shall enter into a contract with the State Election Commission for the repayment of the loan over a period not to exceed five years or the length of the contract to obtain the equipment, software or services, whichever is less.

(4) The county commission shall use the loan for voting equipment and services certified by the State Election Commission pursuant to the provisions of article four-a of this chapter and authorized for use by the Secretary of State.

(5) A county commission may apply for a loan on a form provided by the Secretary of State. The form shall, in addition to requesting information necessary for processing the application, state the deadline for submitting the application and the eligibility requirements for obtaining a loan.

(6) The State Election Commission may waive a portion or all of the matching money required by this subsection for a county commission that can establish that it has exercised due diligence in raising its share of the costs but has been unable to do so. On forms provided by the Secretary of State the county commission shall request a waiver and shall make a full financial disclosure of its assets and liabilities as well as potential for future income when applying for a waiver. The county commission shall demonstrate,

to the satisfaction of the State Election Commission, its inability to meet the matching requirements of this subsection and its ability to repay the loan in a timely manner. Notwithstanding the provisions of subdivision (3) of this subsection, the State Election Commission may extend the repayment period on a year-to-year basis for a repayment period not to exceed five additional years.

(h) *Application.* — An application for a loan shall be approved by the State Election Commission if the requirements of this section have been met.

(i) *Rulemaking.* — The Secretary of State shall propose for promulgation in accordance with article three, chapter twenty-nine-a of this code emergency and legislative rules necessary to effectuate the purposes of this section.

(j) *Availability of loans.* — The State Election Commission may not approve a loan under this section until final standards for electronic voting equipment with a voter verified paper ballot have been established by the Secretary of State or the national institute for standards and technology. The State Election Commission may not approve a loan for the purchase, lease, rental or other similar transaction to obtain electronic voting equipment, software or necessary related services unless obtained under a contract authorized by the Secretary of State pursuant to rules promulgated under this section.

(k) *Repayment of loans.* — The Secretary of State may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a county commission of all the terms and conditions of the loan agreement between the state and that county commission including periodic reduction of any moneys due the county from the state.

(l) Notwithstanding the provisions of this section relating to loan procedures, the State Election Commission may, with a recommendation from the HAVA Grant Board, and consistent with the legislative rules of the program, approve a grant to a county for the purchase of election systems, or election system upgrades, payable from the “county assistance voting equipment fund”.

Provided, That the Secretary of State shall issue emergency rules setting forth the criteria for the issuance of grants to the counties.

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

Engrossed Committee Substitute for Senate Bill 548 was then read a third time and put upon its passage.

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

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 548) passed.

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

Eng. Com. Sub. for Senate Bill 548—A Bill to amend and reenact §3-1-44 and §3-1-48 of the Code of West Virginia, 1931, as amended, all relating generally to the conduct of elections; authorizing compensation for election officials be fixed by county commission; requiring all election officials within a classification to be paid the same amount within each county; authorizing Secretary of State to set maximum compensation rates in certain elections where costs are determined to be obligations of the state; declaring compensation above maximum compensation set by Secretary of State in certain elections to be county obligation; and permitting State Election Commission, with recommendation from HAVA Grant Board and consistent with legislative rules of the program, approve grant to a county for the purchase of election systems or upgrades from the county assistance voting equipment

fund; and directing Secretary of State issue emergency rules setting criteria for issuance of grants.

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

Eng. Senate Bill 551, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB.

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

Pending extended discussion,

The question being “Shall Engrossed Senate Bill 551 pass?”

On the passage of the bill, the yeas were: Arvon, Baldwin, Beach, Blair, Boley, Boso, Cline, Ferns, Gaunch, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Azinger, Clements, Drennan, Facemire, Jeffries, Karnes, Mann, Romano, and Sypolt—9.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 551) passed.

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

Eng. Senate Bill 551—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-13; and to amend and reenact §61-10-20 of said code, all relating to failure of an employer to make contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board; requiring the Consolidated

Public Retirement Board to certify a delinquency lasting for 60 days to the State Auditor, the county commission, and sheriff of the county in which the employer is located; authorizing the State Auditor, county commission, or sheriff of the county in which the employer is located to withhold moneys due to an employer who is delinquent until the delinquency and regular interest thereon is satisfied; authorizing withheld moneys to be applied to the retirement system to which the delinquent payments are due; making it a criminal offense for an employer to knowingly and willfully fail to make required contributions; providing criminal penalties; and providing that conviction of such offense is prima facie evidence of official misconduct.

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

Eng. Com. Sub. for Senate Bill 556, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, 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. 556) passed with its title.

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

Eng. Com. Sub. for Senate Bill 565, Clarifying authority of State Fire Commission.

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. 565) passed with its title.

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

Eng. Com. Sub. for Senate Bill 567, Including treason, murder, armed robbery, and organized crimes for which communications can be intercepted.

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. 567) passed with its title.

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

Eng. Com. Sub. for Senate Bill 568, Deferring further proceedings for certain first offenses upon completion of Motor Vehicle Alcohol Test and Lock Program within 12 months.

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. 568) passed with its title.

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

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

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 582 pass?”

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

The nays were: Palumbo—1.

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. 582) passed with its title.

Senator Clements moved that the bill take effect from passage.

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

The nays were: Palumbo—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 582) 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 584, Finding certain claims against state to be moral obligations of state.

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. S. B. 584) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 584) 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 585, Altering boundary line between Doddridge and Harrison counties.

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. S. B. 585) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 585) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 589, Relating to issuance of personalized plates for antique motor vehicles.

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. 589) passed with its title.

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

Eng. Com. Sub. for Senate Bill 590, Providing special license plate for curing childhood cancer.

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. 590) passed with its title.

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

Eng. Senate Bill 592, Adding examination of advanced care technician for firefighter paramedic.

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. S. B. 592) passed with its title.

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

Com. Sub. for Senate Bill 595, Creating Protect Our Right to Unite Act.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, February 27, 2018, for amendments to be received on third reading, was reported by the Clerk.

On motions of Senators Romano, Azinger, and Trump, the following amendment to the bill was reported by the Clerk:

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

ARTICLE 7. THE PROTECT OUR RIGHT TO UNITE ACT.

§1-7-1. Purpose; intent.

(a) The purpose of this article is to protect an individual's right to support nonprofit organizations that represent their beliefs and the nonprofit organization's right to keep the names and addresses of its supporters confidential by codifying the landmark United States Supreme Court decision in *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958). If a public agency actor violates this protection by making an individual's name, address, and support for nonprofit groups public, either by publication on a public website or other type of broadcast, this article gives the citizen a right to bring suit for relief.

(b) It is the intent of this article to recognize that compelled disclosure of membership lists by a public agency actor is a trespass upon fundamental freedoms protected by the Due Process Clause of the Fourteenth Amendment, as held by the United States Supreme Court in *NAACP v. Alabama ex rel. Patterson*. Therefore, this article should be liberally construed in favor of the individual right to association to ensure that private association is not discouraged or suppressed by any actions of the public servants of this state.

§1-7-2. Definitions.

For the purposes of this article:

“Citizen” means an individual who is a United States citizen and any entity domiciled in the United States, but does not include any foreign agent, foreign government, or non-citizen.

“Donor information” means any record which identifies the association of a citizen with an entity, including information that does not directly identify the citizen but which, in combination with other information, would allow a reasonable person to identify the citizen involved. Donor information includes, but is not limited to, a citizen's name, address, occupation, employer, or any electronic or technical data, including social media accounts, email accounts, location data, or other identifying information.

“Public agency” means any department, office, commission, board, or division of state government; and any county, city,

district, or other political subdivision or municipal corporation or any department, office, commission, court, or board or any other state or local government unit, however designated.

§1-7-3. Protecting privacy of association.

(a) Except as otherwise provided in chapters three and six-b of this code, or as specified in §1-7-3(c) and §1-7-3(d) of this code, no public agency may require any entity organized under Section 501(c) of the Internal Revenue Code to provide it with donor information: *Provided*, That where the state or a public agency nevertheless obtains donor information, it may not be released unless otherwise permitted in chapters three and six-b of this code or as otherwise permitted under this section.

(1) The state or public agency may not release, allow to be released, nor be required to release any record which identifies the association of a citizen with an entity organized under Section 501(c) of the Internal Revenue Code, or which identifies the type or level of financial or nonfinancial support of a citizen for such an entity, without the express written permission of the entity or citizen or at the request of the citizen.

(2) All donor information is exempt from production under the state's Freedom of Information Act, §29B-1-1 *et seq.* of this code.

(b) The state or a public agency may satisfy §1-7-3(a) of this code by redacting from a record any donor information that would tend to show association of citizens, including nonspecific information that would allow a reasonable person to identify the citizen or citizens involved.

(c) This section does not preclude any lawful order or request for information issued by a court of competent jurisdiction.

(d) This section does not preclude any lawful request for discovery by a public agency in litigation: *Provided*, That both of the following qualifications are met:

(1) The requesting party demonstrates a compelling need for the donor information; and

(2) The donor information is subject to a protective order barring distribution of the donor information to any individual not directly involved in the litigation.

§1-7-4. Enforcement by state or private citizen action.

(a) A citizen has a cause of action to enjoin any violation of this article and to recover any actual damages incurred by him or her as a result of the violation.

(b) If the plaintiff prevails, he or she is entitled to be reimbursed by the state or public agency for costs and attorneys' fees he or she has incurred. If the defendant state or public agency prevails, each party is responsible for their own attorneys' fees and costs, except as determined by any applicable statutes or common law rule concerning frivolous cases.

(c) If the judge or jury finds that the violation by the state or public agency was intentional, the amount of the judgment, which for this purpose includes costs and attorneys' fees, may be trebled as punitive damages.

Following discussion,

The question being on the adoption of the amendment offered by Senators Romano, Azinger, and Trump, the same was put and prevailed.

There being no further amendments offered,

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

Engrossed Committee Substitute for Senate Bill 595 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. 595) passed with its title.

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

Eng. Com. Sub. for Senate Bill 598, Relating to civil actions against county commissions and municipalities for injuries.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 598 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Palumbo, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: Facemire, Jeffries, Ojeda, Prezioso, Romano, and Woelfel—6.

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. 598) passed.

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

Eng. Com. Sub. for Senate Bill 598—A Bill to amend and reenact §17-10-17 of the Code of West Virginia, 1931, as amended, relating to civil actions for damages brought against county commissions and municipalities; providing an effective date; providing that a person who sustains injury as a result of any defect in, disrepair or maintenance of, or failure to maintain or repair certain county or municipal property may recover civil damages, subject to certain requirements and limitations; providing certain requirements and limitations for actions against the county commission or municipality; providing that county commissions and municipalities owe no duty to protect against, and are not liable for certain dangers or conditions that are open and obvious or reasonably apparent; providing a standard of application by courts; and providing that the section does not diminish or limit certain protections otherwise afforded in the code.

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

Eng. Com. Sub. for Senate Bill 600, Relating to powers and duties of PSC.

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

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 600 pass?”

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Takubo, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Arvon, Baldwin, Beach, Drennan, Facemire, Jeffries, Mann, Maroney, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—17.

Absent: None.

So, a majority of all the members present and voting not having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 600) rejected on a tie vote.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Facemire regarding the passage of Engrossed Committee Substitute for Senate Bill 600 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for Senate Bill 601, Relating to personal income tax.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 601) passed with its title.

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

Eng. Senate Bill 612, Relating to sale of municipal property.

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. S. B. 612) passed with its title.

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

Eng. Com. Sub. for Senate Bill 616, Establishing maximum gross weight for certain wood-bearing trucks.

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, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Drennan, Sypolt, and Woelfel—3.

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. 616) passed with its title.

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

Eng. Senate Bill 629, Expanding conditions of permanent disability required for Class Q permit.

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

Pending discussion,

The question being “Shall Engrossed Senate Bill 629 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. S. B. 629) passed with its title.

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

Eng. Senate Bill 630, Relating to changes in distribution of certain racetrack video lottery net terminal income and excess lottery fund.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. S. B. 630) passed with its title.

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

Eng. Senate Bill 631, Relating generally to one-call system.

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, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Takubo—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 631) passed with its title.

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

Eng. Com. Sub. for Senate Joint Resolution 7, Supervision of Free Schools Modification Amendment.

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

At the request of Senator Ferns, unanimous consent being granted, the resolution was rereferred to the Committee on Finance.

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 4022, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

On second 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.

Eng. Com. Sub. for House Bill 4024, Relating generally to direct cremation or direct burial expenses for indigent persons.

On second 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.

Eng. Com. Sub. for House Bill 4142, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

On second 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.

Eng. Com. Sub. for House Bill 4169, Requiring certain establishments and facilities to post human trafficking assistance notices.

On second 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.

Eng. House Bill 4385, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

On second 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 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:

Eng. Com. Sub. for House Bill 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

Eng. Com. Sub. for House Bill 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

Eng. Com. Sub. for House Bill 2696, Relating to crossbow hunting.

Eng. Com. Sub. for House Bill 2843, Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

Eng. Com. Sub. for House Bill 2890, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

Eng. Com. Sub. for House Bill 2916, Authorizing certain first responders to carry firearms.

Eng. Com. Sub. for House Bill 3104, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

Eng. Com. Sub. for House Bill 4079, Promulgating administrative rules by various executive or administrative agencies of the state.

Eng. Com. Sub. for House Bill 4138, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

Eng. Com. Sub. for House Bill 4175, Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

Eng. Com. Sub. for House Bill 4199, Permitting a nursing home to use trained individuals to administer medication.

Eng. Com. Sub. for House Bill 4207, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

Eng. House Bill 4285, Relating to the West Virginia Safe Mortgage Licensing Act.

Eng. House Bill 4332, Relating to home peritoneal renal dialysis.

Eng. House Bill 4433, Declaring certain claims against an agency of the state to be moral obligations of the state.

And,

Eng. Com. Sub. for House Bill 4619, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Unger, Ojeda, Karnes, and Facemire.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senators Unger, Ojeda, Karnes, and Facemire were ordered printed in the Appendix to the Journal.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 1:15 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:30 p.m. today and, without objection, returned to the third order of business.

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:

Jim Justice
Governor of West Virginia

February 28, 2018

SENATE EXECUTIVE MESSAGE NO. 2

2018 REGULAR SESSION

The Honorable Mitch Carmichael

President, West Virginia Senate

Building 1, Room M-229

1900 Kanawha Boulevard, East

Charleston, West Virginia 25305

Dear President Carmichael:

The following amends and replaces the “FY 2019 Official Estimate General Revenue – Statement of Revenues by Source”

which I submitted to you on January 10, 2018 as part of my Budget Document for the fiscal year ending June 30, 2019:

General Revenue Fund
Statement of Revenues by Source
(Expressed in Thousands)

| <u>Source of Revenue</u> | <u>Estimate Revised</u> |
|--|-------------------------|
| Business and Occupation Tax | \$ 117,500 |
| Consumers Sales and Use Tax ¹ | 1,303,500 |
| Personal Income Tax ¹ | 2,004,000 |
| Liquor Profit Transfers | 20,800 |
| Beer Tax and Licenses | 7,500 |
| Tobacco Products Tax (Cigarette & Other) | 179,700 |
| Business Franchise Fees | 670 |
| Charter Tax | 0 |
| Property Transfer Tax | 13,000 |
| Property Tax | 6,900 |
| Insurance Tax | 123,500 |
| Departmental Collections | 23,600 |
| Corporate Income/Business Franchise Tax | 142,100 |
| Miscellaneous Transfers | 1,000 |
| Interest Income | 23,000 |
| Severance Tax | 361,700 |
| Miscellaneous Receipts | 10,700 |
| HB102 - Lottery Transfers | 65,000 |
| Special Revenue Transfer | 0 |
| Senior Citizen Tax Credit Reimbursement | 10,000 |
| Total | <u>\$ 4,414,170</u> |

FY 2019
Official

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice
Governor

¹ Revised due to anticipated road construction activity from future bond sales and positive feedback associated with federal tax reform.

Which communication was received and referred to the Committee on Finance.

The Senate again proceeded to the fourth order of business.

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 632 (originating in the Committee on the Judiciary)—A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-9-10 of said code, all relating to allowing retired judicial officers recalled to service to avoid the limit on the temporary employment payments where a circumstance such as a significant illness, suspension, or other long absence of a sitting judicial officer requires a longer period of service by the retired judicial officer than the current cap would allow.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 632) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Ferns, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Arvon, Azinger, 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, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Baldwin, Takubo, and Woelfel—3.

The bill was read a second time and ordered to engrossment and third reading.

Engrossed Senate Bill 632 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, 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, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Baldwin, Takubo, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 632) passed with its title.

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

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolution (Com. Sub. for S. J. R. 8) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 Concurrent Resolution 28, Requesting study to consider removing solid waste facilities from jurisdiction of PSC.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

The resolution, under the original double committee reference, was then referred to the Committee on Rules.

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 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

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.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2654, Expanding county commissions' ability to dispose of county or district property.

Eng. Com. Sub. for House Bill 4180, Relating to wildlife resources.

And,

Eng. Com. Sub. for House Bill 4236, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 2983, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

Eng. Com. Sub. for House Bill 4289, Relating to disability pensions of municipal employees.

Eng. Com. Sub. for House Bill 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

Eng. House Bill 4422, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

And,

Eng. House Bill 4621, Relating to removing reference to certain entities with respect to work.

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

Respectfully submitted,

Craig Blair,
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 4230, Relating to credit for reinsurance.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4343, Relating to the delivery of financial statements to bank shareholders.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4401, Relating to the registration of business.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Gaunch, and by unanimous consent, the bill (Eng. Com. Sub. for H. B. 4401) contained in the foregoing report from the Committee on Government Organization 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

Eng. House Bill 4402, Relating to the prevention of sexual abuse of children.

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.

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. House Bill 4410, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

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.

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. House Bill 4436, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

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.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4444, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

And has amended same.

And,

Eng. House Bill 4624, Relating to West Virginia coordinate systems.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 5:42 p.m., the Senate adjourned until tomorrow, Thursday, March 1, 2018, at 11 a.m.

THURSDAY, MARCH 1, 2018

The Senate met at 11:45 a.m.

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

Prayer was offered by the Reverend Rick Swearingin, Madison United Methodist Church, Madison, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan J. Ferns, a senator from the first district.

Pending the reading of the Journal of Wednesday, February 28, 2018,

At the request of Senator Takubo, 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.

(Senator Ferns in the Chair.)

At the respective requests of Senators Carmichael (Mr. President) and Prezioso, unanimous consent being granted, Senators Carmichael (Mr. President) and Prezioso addressed the Senate regarding public school employee concerns.

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

At the respective requests of Senators Unger, Takubo, Ojeda, and Maroney, unanimous consent being granted, Senators Unger, Takubo, Ojeda and Maroney addressed the Senate regarding public school employee concerns.

The Senate 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 2008—A Bill to amend and reenact §17A-6-2a of the Code of West Virginia, 1931, as amended, relating generally to the Dealer Recovery Fund; specifying that the Dealer Recovery Fund Control Board has discretionary jurisdiction to hear claims; and providing the types of claims for damages that may be awarded from the Dealer Recovery Fund.

Referred to the Committee on Finance.

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 4036—A Bill to amend and reenact §51-2A-6 of the Code of West Virginia, 1931, relating generally to salaries of family court employees; and increasing the maximum salaries of family case coordinators and secretary-clerks.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2018, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4145—A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended as contained in Enrolled Committee Substitute for Senate Bill 267, Regular Session, 2018; and to amend and reenact §18A-4-2 and §18A-4-8a of said code as contained in Enrolled Committee Substitute for Senate Bill 267, Regular Session, 2018, all relating to increasing compensation for certain public employees; increasing the annual salaries of members of the West Virginia State Police; increasing the minimum salaries payable to public school teachers and professional personnel during the contract year; and increasing the minimum monthly pay for public school service personnel.

Referred to the Committee on Finance.

Senator Prezioso moved that Engrossed Committee Substitute for House Bill 4145 be taken up for immediate consideration and read a first time.

The question being on the adoption of Senator Prezioso's aforestated motion, and on this question, Senator Prezioso demanded the yeas and nays.

Senator Ferns moved that Senator Prezioso's motion be tabled.

Following points of inquiry to the President, with resultant response thereto,

The question now being on the adoption of Senator Ferns' motion to table Senator Prezioso's aforestated motion, and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Arvon, Baldwin, Beach, Facemire, Jeffries, Mann, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed and Senator Prezioso's motion was thereafter tabled.

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. House Bill 4153—A Bill to repeal §11-26-1, §11-26-2, §11-26-3, §11-26-4, §11-26-5, §11-26-6, §11-26-7, §11-26-8, §11-26-9, §11-26-10, §11-26-11, §11-26-12, §11-26-13, §11-26-14, §11-26-15, §11-26-16, §11-26-17, §11-26-18, §11-26-19 and §11-

26-20 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-27-3 of said code; and to amend said code by adding thereto a new section, designated §11-27-10a, all relating to imposing a healthcare related provider tax on certain health care organizations; repealing outdated tax: adding definitions; establishing tax rates; requiring federal approval of tax; and setting effective date.

Referred to the Committee on Health and Human Resources.

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

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 4217—A Bill to amend and reenact §61-12-10 of the Code West Virginia, 1931, as amended, relating to permitting a designated representative of a hospital or an attending physician to obtain a patient’s autopsy report.

Referred to the Committee on Health and Human Resources.

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 4336—A Bill to amend and reenact §60A-2-204, §60A-2-206, §60A-2-210 and §60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to updating the schedule of controlled substances.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2018, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4338—A Bill to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-

1-5, §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, §25-1-22, of the Code of West Virginia, 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24 and §28-5-27, of said code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24, §31-20-27, §31-20-27a, §31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, §62-12-15 and §62-12-25 of said code; to repeal §62-13-3, §62-13-4, §62-13-5 and §62-13-6a of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-2-1, §15A-2-2, §15A-2-3, §15A-2-4, §15A-2-5, §15A-2-6, §15A-2-7, §15A-2-8, §15A-2-9, §15A-2-10, §15A-2-11, §15A-2-12, §15A-2-13, §15A-2-14, §15A-2-15, §15A-2-16, §15A-2-17, §15A-2-18, §15A-2-19, §15A-2-20, §15A-2-21, §15A-2-22, §15A-2-23, §15A-2-24, §15A-2-25, §15A-2-26, §15A-2-27, §15A-2-28, §15A-2-29, §15A-2-30, §15A-2-31, §15A-2-32, §15A-2-33, §15A-2-34, §15A-2-35, §15A-2-36, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-3-6, §15A-3-7, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-5-1, §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-6-1, §15A-6-2 and §15A-6-3; and to amend and reenact §19-12A-5 of said code, all relating generally to supervision of persons committed to the custody of the division of corrections, division of juvenile services and the regional jail and correctional facility authority; consolidating supervision authority of the division of corrections, division of juvenile services and the regional jail and correctional facility authority; creating the Division of Administrative Services and the Division Corrections and Rehabilitation in the Department of Military Affairs and Public Safety; transferring certain authority to the Division of Corrections and Rehabilitation; abolishing certain divisions and authorities; setting forth legislative intent; setting

forth the institutions to be controlled by the Commissioner of Corrections and Rehabilitation; establishing law enforcement powers; establishing employment criteria; establishing rules for offenders and inmates; establishing certain funds and programs; creating the Bureau of Prisons and Jails and setting forth its duties and responsibilities; establishing the Bureau of Juvenile Services and setting forth its duties and responsibilities; establishing the Bureau of Community Corrections and setting forth its duties and responsibilities; creating the Regional Jail and Corrections Authority Board and setting forth its duties and responsibilities; setting forth compensation; providing criminal penalties; defining terms; and requiring rule-making.

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 4345—A Bill to amend and reenact §16A-4-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §16A-6-13 of said code; and to amend and reenact §16A-16-1 of said code, all relating to medical cannabis; adding requirements for practitioners to issue a certification; adding a requirement that practitioners provide an attestation; increasing the number of permits that the bureau may issue for growers, processors and dispensaries of medical cannabis; permitting a grower to be a processor and a processor to be a grower; allowing growers and processors to be dispensaries; permitting dispensaries to be growers and processors and authorizing the bureau to implement a process for pre-registration.

Referred to the Committee on the Judiciary.

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 4357—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new

chapter, designated §31H-1-1, §31H-1-2, §31H-2-1, §31H-2-2, §31H-2-3, and §31H-2-4, all relating to the establishment of the West Virginia Small Wireless Facilities Deployment Act; making legislative findings; defining terms; providing for access to public rights-of-way for the collocation of small wireless facilities; providing and limiting state and local government authority to prohibit, regulate or charge for collocation; authorizing and limiting activities and equipment of providers; excluding micro wireless facilities from regulation; authorizing and limiting permits for activities; providing for the collection of fees and setting the amount of fees; authorizing and limiting access to collocation sites, structures and equipment; authorizing and limiting agreements between authority and provider; and providing for certain local zoning, indemnification, insurance, bonding and other forms of surety requirements.

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 4392—A Bill to amend and reenact §9-5-11 of the Code of West Virginia, 1931, as amended, relating to Medicaid subrogation liens of the Department of Health and Human Resources; extending the definition of a liable “third-party” to include certain insurers; establishing notice requirements for claims and civil actions; providing authority for the secretary to negotiate and incentivize Medicaid members to prosecute lawsuits against liable third parties; requiring department authorization before finalizing settlement in certain circumstances; establishing the notice, procedure and consent requirements for settlement allocation; establishing procedure in the event the department rejects the proposed allocation; establishing the burden of proof regarding allocation dispute proceedings in court; requiring the trial court to consider the department’s interests in maximizing recovery for purposes of the operation of the Medicaid program in an allocation dispute; where a final subrogation lien is less than \$1,500 those matters are exempt from the provisions of this section; modifying the penalty for failure of recipient’s legal

representative to notify the department to include interest, and setting effective date.

Referred to the Committee on Health and Human Resources.

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 4431—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, §20-14A-11, and §20-14A-12, all relating to establishing the Mountaineer Trail Network Recreation Authority; providing a statement of legislative purpose and findings; providing definitions; establishing the Mountaineer Trail Network Recreation Authority; providing for a method of appointment to the board of the authority; prescribing the terms of appointment; describing the powers and duties of the board for the authority; providing for financial oversight; describing the powers and duties of the authority; establishing prohibited acts and creating a criminal penalty; limiting the liability of landowners; setting forth purchasing and bidding procedures and creating a criminal penalty; providing for conflicts of interest and creating a criminal penalty; providing civil remedies; and providing for severability.

Referred to the Committee on the Judiciary.

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 4447—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31G-5-1, §31G-5-2, §31G-5-3, §31G-5-4, §31G-5-5, §31G-5-6, §31G-5-7, §31G-5-8, §31G-5-9, §31G-5-10 and §31G-5-11, all relating to providing a uniform and efficient system of broadband conduit installation coinciding with the construction, maintenance or improvement of highways, and

rights-of-way under the oversight of the Division of Highways; defining terms; providing procedures for broadband conduit installation in rights of way; providing for requirements for permits to install broadband conduit there; providing for agreements to install broadband conduit there and terms to be included; compensation due the Division of Highways for use of spare conduit or related facilities of the Division of Highways as part of any longitudinal access granted to a right-of-way pursuant to this section; defining the valuation of such compensation, including in-kind compensation; establishing limitations on longitudinal access consistent with highway safety and certain existing highway policies; delineating requirements for provider initiated construction; providing guidelines for joint use of trenches or trench sharing where multiple providers share a single trench and agreements governing the same; delineating provisions governing the Division of Highways offering a provider use of, and access to, its spare conduit; providing guidelines for the relocation and upgrade of existing telecommunications facilities within rights-of-way for state highways; providing guidelines for the installation of broadband conduit in covered highway construction projects; providing that the Division of Highways install broadband conduit on certain highway construction projects as recommended by the Broadband Enhancement Council; requiring coordination between the Broadband Enhancement Council and various state and local government entities for the installation, maintenance and improvement of the conduit; requiring development of a strategy and adoption of policies for deployment of broadband conduit to serve buildings and property of state, county, municipal and local units of government owned lands and buildings; and providing joint rule-making authority to the Broadband Enhancement Council and the Commissioner of the Division of Highways to further the ends of this statute.

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 4455—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designation §61-8-19d, all relating to animal abuse generally; prohibiting activities connected with sexual abuse of an animal; establishing criminal penalties; providing for forfeiture of animals, payment of associated costs, providing for restrictions on owning animals upon conviction; and requiring psychiatric evaluation and payment of costs in certain circumstances.

Referred to the Committee on the Judiciary.

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 4490—A Bill to amend and reenact §22-6-8 of the Code of West Virginia, 1931, as amended, relating to oil and gas permits not to be on flat well royalty leases; legislative findings and declarations; permit requirements.

Referred to the Committee on the Judiciary.

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 4524—A Bill to amend and reenact §30-5-12b of the Code of West Virginia, 1931, as amended, relating to establishing guidelines for the substitution of certain biological pharmaceuticals by pharmacists; defining terms; providing for guidelines relating to substitution of interchangeable biological products; establishing communication requirements between the pharmacists and prescriber relating to substitution of interchangeable biological products; and requiring maintenance of records relating to biological products dispensed for at least two years.

Referred to the Committee on Health and Human Resources.

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. House Bill 4529—A Bill to amend and reenact §8-13-25 of the Code of West Virginia, 1931, as amended, relating to oath by municipal official certifying list of delinquent business and occupation taxes; and providing that official is not subject to penalties for disclosure.

Referred to the Committee on the Judiciary.

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 4558—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-16, relating to establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office; and setting forth general structure of fund and distribution of funds.

Referred to the Committee on Finance.

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 4571—A Bill to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to the final day of filing announcements of candidates for a political office; and providing that the deadline on that final day is 11:59 p.m.; requiring that the office of the Secretary of State be open until that time; and requiring the offices of the County Clerks of each county be open from 9. m. until 12 p. m. on that date.

Referred to the Committee on the Judiciary.

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 4603—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1, §55-7K-2, and §55-7K-3, relating to providing immunity from civil liability to facilities and employees providing crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdose services on a short-term basis; providing that the provisions of this article are applicable prospectively to all causes of action filed on or after July 1, 2018; and providing that the provisions of this article are to operate in addition to, and not in derogation of, any of the provisions contained in the Medical Professional Liability Act.

Referred to the Committee on the Judiciary.

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. House Bill 4626—A Bill to amend and reenact §11-13BB-3, §11-13BB-4 and §11-13BB-14 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia innovative mine safety technology tax credit act; requiring that proximity detection systems, cameras and underground safety shelters and the refurbishing thereof be on the list of approved innovative mine safety technology; providing exception to intent of the Legislature as to description of what should be on the list; extending the tax credit authorized for qualified investment in eligible safety property under the act; and correcting cross-references.

Referred to the Committee on Finance.

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. House Bill 4627—A Bill to amend and reenact §8-21-8 of the code of West Virginia, 1931, as amended, relating to providing a limitation on the eminent domain authority of a municipal park board by requiring the approval of the governing

body of that municipality in instances where it is sought to be exercised.

Referred to the Committee on the Judiciary.

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. House Bill 4628—A Bill to amend and reenact §23-2C-3 of the Code of West Virginia, 1931, as amended, relating to authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to January 1, 2019; terminating the surcharges and assessments after December 31, 2018; and terminating the provisions of the section beginning on and after January 1, 2019, and exceptions thereto.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4629—A Bill to repeal §31G-1-10, of the Code of West Virginia, 1931, as amended; to amend and reenact §31G-2-1 of said Code; and to repeal §31G-4-1, §31G-4-2, and §31G-4-3 of said Code; all relating to broadband enhancement and expansion policies generally; repealing language relating to pilot project for cooperative associations by political subdivisions; providing that a political subdivision of this state may be a qualified person for the purposes of forming a cooperative association; and repealing the article setting forth provisions relating to make ready pole access.

Referred to the Committee on Government Organization.

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

House Concurrent Resolution 8—Requesting West Virginia’s congressional delegation to ask the United States Department of Energy and the United States Department of Commerce to make available funding for a feasibility study to analyze a coal-to-chemicals project for West Virginia and the Appalachian region.

Referred to the Committee on Energy, Industry, and Mining.

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

House Concurrent Resolution 24—Recognize March 2, 2018, as National Speech and Debate Education Day.

Referred to the Committee on Government Organization.

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

House Concurrent Resolution 77—Requesting the Division of Highways to name a portion of West Virginia Route 85, Pond Fork Road, near Wharton, Boone County, West Virginia, beginning at the intersection of Secondary Rt. 11/1, James Creek Rd., and West Virginia Route 85, and traveling approximately 2.1 miles, between Bald Knob and Wharton, the “Deputy Sheriff Jesse R. Browning Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 1st day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(H. B. 4380), Making a supplementary appropriation to the Department of Agriculture.

(H. B. 4381), Making a supplementary appropriation to the Department of Education.

(H. B. 4384), Making a supplementary appropriation to the Department of Transportation.

(H. B. 4386), Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

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

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2889, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

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

Respectfully submitted,

C. Edward Gaunch,
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

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
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

Eng. Com. Sub. for House Bill 4238, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

(Senator Trump in the Chair.)

The Senate proceeded to the sixth order of business.

Senators Palumbo, Stollings, Boso, Beach, and Plymale offered the following resolution:

Senate Concurrent Resolution 42—Requesting the Division of Highways name bridge number 20-60-27.85 (20A154), locally known as the Dupont Overpass Bridge, carrying U. S. Route 60 over County Route 60/15 in Kanawha County, the “U. S. Navy Veteran Samuel H. Slack, Jr., Memorial Bridge”.

Whereas, Samuel H. Slack, Jr., was a veteran of World War II, the Korean War, and the Vietnam War, and was a deeply patriotic American until his death at age 91; and

Whereas, Samuel H. Slack, Jr., always spoke proudly of his time in the United States Navy, and was particularly proud of serving aboard the USS Long Beach when the U. S. Navy launched its first fleet of nuclear vessels. He spoke with amazement about how the ship could travel around the world without the need to stop and refuel; and

Whereas, Samuel H. Slack, Jr., was honored by the Taiwanese Government in 1998 for his service during the Korean War; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Navy Veteran Samuel H. Slack, Jr., for his service to our state and nation; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-60-27.85 (20A154), locally known as the Dupont Overpass Bridge, carrying U. S. Route 60 over County Route 60/15 in Kanawha County, the “U. S. Navy Veteran Samuel H. Slack, Jr., Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Navy Veteran Samuel H. Slack, Jr., Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

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

Senate Concurrent Resolution 43—Requesting the Division of Highways name bridge number 17-19/33-0.01 (17A093), locally known as Spelter Bridge, carrying County Route 19/33 over West Fork River in Harrison County, the “U. S. Army T-4 CE Caesar Bango Memorial Bridge”.

Whereas, Caesar Bango was born in Anmoore, West Virginia, on November 16, 1924, to Jose and Maria Bango. He was one of six siblings, three boys and three girls. His family moved to Spelter, West Virginia, when he was four. He attended school there and graduated from Victory High School in 1943. The next day he was drafted into the United States Army; and

Whereas, Caesar Bango completed boot camp at Fort Leonard Wood in Missouri. He was then the only soldier out of 300 selected to work on the Manhattan Project in Los Alamos, New Mexico, where the first atomic bomb was being built. Years later, he recalled his experience, “They wouldn’t tell me where I was going or what I was going to be doing. All my letters were censored and I couldn’t use the phone for 30 months. It was worse than war because they kept the atomic bombs there and your never knew what was going to happen.” He also recounted the smoke that rolled all over the countryside the day the first atomic bomb was detonated in the New Mexico desert. He had a perspective of World War II that few in our country had the opportunity to share; and

Whereas, Caesar Bango returned to Spelter after the war ended, married Goldie Fern Sprout and had a son, Jefferson Jose “JJ” Bango. Caesar worked at the Zinc Plant for 30 years, was employed by the Division of Highways for 17 years, and engaged in civic efforts and activities for his community and country. He supported election efforts and was politically active for decades in Harrison County, and did not miss an election after his military discharge in 1946. He left the service with the rank of T-4 CE. He served as a community leader on the board of directors for the Enlarged

Hepzibah Public Service District Board for 10 years; was a member of the Shinnston American Legion and the Loyal Order of Moose; and he was a friend of labor; and

Whereas, Caesar Bango faithfully served the unincorporated town of Spelter, West Virginia, as honorary mayor, advocating for improvements for the betterment of its citizens, including the remediation of its lands and homes caused by industrial pollution and the construction of recreational facilities for all the children of Harrison County, West Virginia; and

Whereas, Caesar Bango lived to the age of 90 and died on May 1, 2015, having been preceded in death by his wife in 2002 and his son in 1975; and

Whereas, It is fitting that an enduring memorial be established to commemorate T-4 CE Caesar Bango and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17-19/33-0.01 (17A093), locally known as Spelter Bridge, carrying County Route 19/33 over West Fork River in Harrison County, the “U. S. Army T-4 CE Caesar Bango Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army T-4 CE Caesar Bango Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Swope, Boso, Maynard, Stollings, Cline, and Plymale offered the following resolution:

Senate Concurrent Resolution 44—Requesting the Division of Highways name a portion of U. S. Route 19 in Princeton, beginning at Monroe Street and ending at Clay Street, in Mercer County, the “Bluefield Police LT Aaron L. Crook Memorial Road”.

Whereas, LT Aaron L. Crook was born on August 31, 1984, to Shelda Jean Bennett and the late Jackie Lee Crook. He grew up in Nimitz, attended Jumping Branch School from kindergarten to fifth grade, then Pipestem Christian Academy from which he graduated; and

Whereas, LT Aaron L. Crook joined the U. S. Marine Corps Reserves in 2006 where he was a heavy equipment operator and was honorably discharged in 2014; and

Whereas, LT Aaron L. Crook received his criminal justice degree from Bluefield State College and joined the Bluefield Police Department on February 25, 2008, where he rose to the rank of Lieutenant; and

Whereas, LT Aaron L. Crook married Whitney Brookman in March 2009. They had their first child August 2014 and a second child in June 2016; and

Whereas, Lieutenant Crook loved his family and country. He also loved the outdoors, especially fishing, and never passed up an opportunity to go fishing with his buddies; and

Whereas, LT Aaron L. Crook died on May 30, 2017, from injuries received while serving and protecting the good people of Bluefield and Mercer County; and

Whereas, LT Aaron L. Crook is survived by his: wife, Whitney Ann Brookman Crook; children, Brycen Lee Crook and Paislee Ann Crook; mother, Shelda Jean Bennett Crook; grandmother, Loretta Jean Titta; three brothers, Jason Alexander Crook, Jackie Lee Crook II, and Brian Thomas Crook; and two half-siblings, Deborah Bennett and Terry Baich; and

Whereas, It is appropriate to name this road to honor LT Aaron L. Crook's service to his community and to his country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name a portion of U. S. Route 19 in Princeton, beginning at Monroe Street and ending at Clay Street, in Mercer County, the "Bluefield Police LT Aaron L. Crook Memorial Road"; and, be it

Further Resolved, That the Division of Highways is requested to have made and be placed signs identifying the road as the "Bluefield Police LT Aaron L. Crook Memorial Road"; and, be it

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

Which, under the rules, lies over one day.

At the request of Senator Blair, and by unanimous consent, Senator Blair offered the following resolution from the floor:

Senate Concurrent Resolution 45—Suspending Joint Rule No. 5, relating to consideration of Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

Resolved by the Legislature of West Virginia, two thirds of the members present and voting in each house agreeing thereto:

That the provisions of Rule No. 5 of the Joint Rules of the Senate and House of Delegates are hereby suspended for the express purpose of consideration of Com. Sub. for Senate Joint Resolution 8.

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

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

The question being on the adoption of the resolution.

At the request of Senator Plymale, and by unanimous consent, at 12:59 p.m., the Senate recessed for five minutes.

The Senate reconvened at 1:19 p.m. today and resumed consideration of

Senate Concurrent Resolution 45, Suspending provisions of Joint Rule 5 as to Com Sub for SJR 8.

The question being on the adoption of the resolution.

At the request of Senator Ferns, unanimous consent being granted, the resolution (S. C. R. 45) was referred to the Committee on Rules.

Senators Palumbo, Stollings, Cline, Boso, Prezioso, Beach, and Plymale offered the following resolution:

Senate Resolution 57—Designating March 1, 2018, as Innovation and Entrepreneurship Day at the Capitol.

Whereas, Research and innovation continue to be bedrocks of this nation's economic strength and vitality; and

Whereas, Facilitating innovation-based economic development and the growth of entrepreneurial companies are critical to our state's future and prosperity; and

Whereas, Entrepreneurs and small businesses create the vast majority of the new jobs in the United States; and

Whereas, Research and development activities being done in both federally funded, university, and private laboratories in our state are important for new discoveries, scientific and engineering solutions, and potential commercialization opportunities; and

Whereas, Innovations in manufacturing, such as 3D printing, are opening new opportunities for West Virginia's small manufacturing firms to develop new products and processes to improve their bottom lines; and

Whereas, Access to risk capital remains a critical need for West Virginia entrepreneurs and innovators that is being addressed by existing and new public and private programs, such as the West Virginia Jobs Investment Trust, the INNOVA Commercialization Group, and other vital lending programs; and

Whereas, More than 130 organizations, agencies, and companies are working together to help advance the state's innovation and entrepreneurship potential and capacity; and

Whereas, West Virginia has developed an integrated ecosystem of organizations, agencies, and financial firms working collaboratively to spur innovation enterprises and job creation; and

Whereas, Many of these innovation drivers are here at the Capitol today as part of the Innovation and Entrepreneurship Day hosted by TechConnect West Virginia and the TransTech Energy Business Development Program; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes March 1, 2018, as Innovation and Entrepreneurship Day at the Capitol; and, be it

Further Resolved, That the Senate acknowledges the long-term economic opportunities that an innovation-based economy and entrepreneurial culture can provide our state's citizens; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the appropriate representatives of TechConnect West Virginia.

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

Senators Prezioso, Stollings, Boso, Beach, and Plymale offered the following resolution:

Senate Resolution 58—Recognizing the guiding principles and collaborative partnership of West Virginia Forward's initiatives to advance West Virginia's economic future.

Whereas, West Virginia University, Marshall University, and the Department of Commerce have partnered together for the West Virginia Forward collaboration to develop a blueprint to identify West Virginia's unique assets and pair them with economic trends that will provide solutions and areas of emphasis to leverage growth and development opportunities to strengthen and diversify all regions of the state; and

Whereas, With a focus on short-term and long-term objectives, and a refined vision, West Virginia Forward is guided by principles that build on existing assets, grow and diversify new sectors, discover disruptive trends to find market-changing innovations, consider the region's greatest regional impact, and find quick wins that produce change and growth; and

Whereas, West Virginia Forward's collaborative efforts will focus on data-driven, nonpartisan, innovative solutions and opportunities; and

Whereas, The West Virginia Forward summary of findings identifies areas to advance West Virginia's workforce, business climate, educational opportunities, community development, energy sector, cybersecurity, entrepreneurship, and infrastructure; and

Whereas, The West Virginia Forward initiative is an appropriate and vital effort to advance our state into prosperity, and energize partnerships while blazing a new path toward improving the state's economic future; and

Whereas, The West Virginia Forward initiative is an outstanding example of collaboration between university partners, the Department of Commerce, and state leaders to continue developing strategies to improve West Virginia; therefore, be it

Resolved by the Senate:

That the Senate recognizes the guiding principles and collaborative partnership of West Virginia Forward's initiatives to advance West Virginia's economic future; and, be it

Further Resolved, That the Senate acknowledges and appreciates the work of West Virginia Forward and the guidance, assistance, and information that it will provide to the Legislature as it works to advance the State of West Virginia to achieve its fullest potential; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to representatives from West Virginia University, Marshall University, and the West Virginia Department of Commerce.

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.

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

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 46 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on the Judiciary study the potential creation of a legal system in West Virginia in which compensation is provided to victims of abusive lawsuits; and in which a party in a civil action is entitled to recover attorney's fees and costs after a court dismisses a claim as lacking any basis in law or fact; and in which a plaintiff can recover attorney's fees and costs if the defendant raises a defense without any basis in law or fact; and to explore the policies of other states on the matter with a focus on their implementation and effectiveness for purposes of potential replication.

Whereas, Such a system could be an effective means by which to reduce the number of frivolous lawsuits in the state; and

Whereas, Other abusive, unnecessary, and potentially harmful lawsuits could be deterred by such a legal system; and

Whereas, Reductions in the volume of these lawsuits would help to alleviate some congestion in the West Virginia court system, allowing for justice to be more efficiently dispensed; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is requested to study the potential creation of a legal system in West Virginia in which compensation is provided to victims of abusive lawsuits; and a system in which a party in a civil action is entitled to recover attorney's fees and costs after a court dismisses a claim as lacking any basis in law or fact; and in which a plaintiff can recover attorney's fees and costs if the defendant raises a defense without any basis in law or fact; and to explore the policies of other states on the matter with a focus on their implementation and effectiveness for purposes of potential replication; and, be it

Further Resolved, That the Joint Committee on the Judiciary enlist the assistance of the West Virginia Attorney General, the West Virginia State Bar, and the West Virginia Supreme Court of Appeals in conducting the study; and, be it

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

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

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,
Chair.

On motion of Senator Trump, the resolution (S. C. R. 46) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 47 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on the Judiciary study and draft a potential bill designed to limit the use of criminal records as a basis to disqualify a person from receiving a license or other authorization to practice an occupation.

Whereas, The terminology currently used by several licensing entities to disqualify individuals from qualification is often vague; and

Whereas, Granting individuals with criminal records increased access to occupational licensing will allow them to build successful careers in West Virginia; and

Whereas, Citizens are sometimes prohibited from entering a professional career due to a nonviolent criminal offense in their past that is unrelated to their prospective line of work; and

Whereas, Disqualification from licensing due to a past criminal offense is sometimes for life, a punishment that often does not fit the severity of the crime; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is requested to study and draft a potential bill designed to limit the use of criminal records as a basis to disqualify a person from receiving a license or other authorization to practice an occupation; and, be it

Further Resolved, That these limits would apply to state agencies, offices, boards, commissions, and to political subdivisions that grant licenses, certifications, registrations,

occupational permits, and other forms of legal authorization. Licensing authorities would need to be specific about the types of convictions that would disqualify a person from receiving or keeping a license to practice, and state agencies would need to update their rules to follow the requirements of the act. The bill should also prevent political subdivisions from creating license requirements for an occupation if the political subdivision does not already have requirements for that occupation; and, be it

Further Resolved, That the Joint Committee on the Judiciary enlist the assistance of state licensing boards in conducting the study; and, be it

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

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

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,
Chair.

On motion of Senator Trump, the resolution (S. C. R. 47) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

The Senate proceeded to the seventh order of business.

Senate Resolution 53, Recognizing Glenville State College for its efforts in making education more affordable.

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

At the request of Senator Romano, 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 Senators Romano, Facemire, and Clements regarding the adoption of Senate Resolution 53 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 1:30 p.m., the Senate recessed to present Senate Resolution 53.

The Senate reconvened at 1:34 p.m. today and proceeded to the ninth order of business.

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

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

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

At the request of Senator Prezioso, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

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

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

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

ARTICLE 4. COURT ACTIONS.

§49-4-720. Prohibition on committing juveniles to adult facilities. ~~copy provided to juvenile~~

(a) ~~No~~ A juvenile, including one who has been transferred to criminal jurisdiction of the court, ~~shall~~ may not be detained or confined in any institution in which he or she has contact with or comes within sight or sound of any adult persons incarcerated because ~~they have~~ he or she has have been convicted of a crime or are awaiting trial on criminal charges or with the security staff (including management) or direct-care staff of a jail or locked facility for adults.

(b) ~~No~~ A child who has been convicted or is awaiting trial of an offense under the adult jurisdiction of the circuit court ~~shall~~ may not be held in custody in a an adult correctional facility of this state while under the age of 18 years. The Division of Juvenile Services shall ~~be responsible for notifying~~ notify the sentencing court and copy the county prosecuting attorney of the sentencing court within ~~forty-five~~ 180 days, or as soon as practicable, days of the child's ~~eighteenth birthday~~ that the child will be turning 18 years of age. The court shall, upon receipt of the notice, set the matter for a hearing. Within ten days of the child's eighteenth birthday, the court shall transfer the offender to Before the child reaches 18 years of age, the court shall hold a hearing and enter an order transferring the offender to an adult correctional facility, a facility for youthful offenders, if applicable; or to any other disposition the court deems considers appropriate, which does not violate the provisions of subsection (a) of this section; for adult offenders. Notwithstanding any other provision of this code to the contrary, prior to the transfer the child shall be returned to the sentencing court for the purpose of reconsideration and modification of the imposed sentence, which shall be based upon a review of all records and relevant

~~information relating to the child's rehabilitation since his or her conviction under the adult jurisdiction of the court. Provided, however, That the court may not remand a person who reached the age of 18 years to a juvenile facility or place the person with other juveniles.~~

(c) The provisions of §61-11A-1 et seq. of this code, are applicable to proceedings under this section.

§49-4-722. Conviction for offense while in custody.

(a) Notwithstanding any other provision of law to the contrary, any person who is 18 years of age or older who is convicted as an adult of an offense that he or she committed while in the custody of the Division of Juvenile Services and who is therefor sentenced to a regional jail or state correctional facility for the offense may not be returned to the custody of the division upon the completion of his or her adult sentence. ~~until a hearing is held before the court which committed the person to the custody of the Division of Juvenile Services at which hearing the division may present any objections it may have to return the person to its custody. If the division does object and the court overrules the division's objections, it shall make specific written findings as to its rationale for overruling the objections.~~

~~(b) No person who is eighteen years of age or older who is convicted as an adult of a felony crime of violence against the person while in the custody of the Division of Juvenile Services be returned to the custody of the Division of Juvenile Services upon completion of his or her adult sentence Prior to completion of the adult sentence specified in §49-4-722(a) of this code, the circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to determine whether the person who has turned 18 years of age shall remain in the regional jail during pendency of the underlying juvenile matter or if another disposition or pretrial placement is appropriate and available: Provided, That the court may not remand a child who reached the age of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile matter.~~

The bill (Eng. Com. Sub. for H. B. 2483), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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

Eng. Com. Sub. for House Bill 2696, Relating to crossbow hunting.

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

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

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

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-42a. Class A resident hunting and trapping license.

A Class A license is a resident hunting and trapping license and entitles the licensee to hunt and trap all legal species of wild animals and wild birds in all counties of the state, except ~~that the licensee may not hunt deer during the deer archery, and muzzle-loader seasons, or black bear, wild turkey or wild boar during the respective seasons,~~ big game as provided in §20-2-42v of this code, and except as prohibited by rules of the Director or Natural Resources Commission and when additional licenses, stamps, or permits are required. It shall be issued only to residents or aliens lawfully residing in the United States who have been domiciled residents of West Virginia for a period of 30 consecutive days or more immediately prior to the date of their application for a license. The fee for the license is \$18. This is a base license and does not require the purchase of a prerequisite license to participate in the activities specified in this section, except as noted.

§20-2-42q. Class RB resident and Class RRB nonresident archery deer hunting stamp for an additional deer.

The Director ~~has the authority to~~ may issue a Class RB resident and a Class RRB nonresident archery deer hunting stamp when ~~deemed~~ considered essential for the proper management of the wildlife resources. This stamp allows the licensee to hunt and take an additional deer during the deer archery or crossbow seasons as designated by the director. The fee for a Class RB stamp is \$20 and the fee for a Class RRB stamp is \$35. The director may ~~promulgate~~ propose rules for promulgation in accordance with §29A-3-1 *et seq.* of this code governing the issuance and use of these stamps. These stamps require that the licensee purchase the appropriate base license before participating in the activities specified in this section ~~except as noted~~.

§20-2-42s. Class UU nonresident archery deer hunting stamp.

A Class UU stamp is a nonresident archery deer hunting stamp and entitles the licensee to hunt and take deer with a bow during the archery deer season or with a crossbow in the crossbow deer season in all counties of the state, except as prohibited by the rules of the Director or Natural Resources Commission. The fee for a Class UU stamp is \$30. The stamp, issued in a form prescribed by the director, ~~shall be~~ is in addition to a Class E license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section ~~except as noted~~.

§20-2-42v. Class BG resident big game stamp.

A Class BG stamp is a resident big game stamp and entitles the Class A licensee to hunt deer during the deer archery, crossbow, and muzzleloader seasons, and bear, wild turkey, and wild boar during the respective seasons, except as prohibited by rules of the Director or Natural Resources Commission: *Provided*, That the licensee possesses all other required permits ~~and/or~~ and stamps. The fee for the stamp is \$10. The stamp, issued in a form prescribed by the director, shall be in addition to a Class A license. This stamp requires that the licensee purchase the appropriate base license before participating in the activities specified in this section ~~except as noted~~.

The bill (Eng. Com. Sub. for H. B. 2696), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2843, Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

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

Eng. Com. Sub. for House Bill 2890, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

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

Eng. Com. Sub. for House Bill 2916, Authorizing certain first responders to carry firearms.

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

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

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 3. ATTORNEY GENERAL.

**§5-3-6. Attorney General's investigators authority to carry
concealed weapon.**

(a) The Attorney General may allow, consistent with the provisions of this section, an investigator to carry a concealed firearm while performing his or her official duties.

(b) An investigator employed by the Attorney General may carry a concealed firearm approved by the Attorney General solely for purposes of defense of self or others if the investigator has:

(1) Obtained the written authorization by the Attorney General;

(2) Been determined not to be prohibited from possessing a firearm under state or federal law;

(3) Obtained and maintains a concealed handgun license pursuant to §61-7-1 *et seq.* of this code; and

(4) Successfully completed a firearms training and certification program equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy. The investigator must thereafter successfully complete an annual firearms qualification counsel equivalent to that required of certified law-enforcement officers as established by legislative rule. The Attorney General may reimburse the investigator for the cost of the training and requalification.

(c) Neither the state, a political subdivision, an agency nor an employee of the state acting in an official capacity, may be held personally liable for an act of an investigator employed by the Attorney General if the act or omission was done in good faith while the investigator was performing official duties or responsibilities under the office of the Attorney General.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

§6-3-1a. Deputy sheriff's reserve; purpose; appointment and qualifications of members; duties; equipment; attire; training; oath; bond; not employee of sheriff or county commission for certain purposes; limitation on liability.

(a) The sheriff of any county may, for the purposes set forth in this section, designate and appoint a deputy sheriffs' reserve,

hereinafter referred to as “reserve” or “reserves.” A reserve may not be designated or created without the prior approval of the county commission for the establishment of the reserve.

(b) Each sheriff may appoint as members of the reserve bona fide citizens of the county who are of good moral character and who have not been convicted of a felony or other crime involving moral turpitude. Any person appointed shall serve at the will and pleasure of the sheriff and is not subject to the provisions of §7-14-1 *et seq.* seven of this code. A member of the reserve may not engage in any political activity or campaign involving the office of sheriff or from which activity or campaign the sheriff or candidates for sheriff appointing the member would directly benefit.

(c) Members of the reserves shall not serve as law-enforcement officers, nor carry firearms, except that a member of the reserves may carry a firearm approved by the sheriff while acting in the capacity as a reserve deputy sheriff solely for purpose of defense of self or others, if that member has

(1) obtained the written authorization of the sheriff;

(2) been determined not to be prohibited from possessing a firearm under state or federal law; and

(3) successfully completed a firearms training and certification program equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy. The member must thereafter successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule. The department may reimburse the member for the cost of the training and requalification. ~~but~~

Members may carry other weapons, provided that the sheriff certifies in writing to the county commission that the reserve has met the special training requirements for the weapon as established by the Governor’s Committee on Crime, Delinquency and Corrections. The Governor’s Committee on Crime, Delinquency and Corrections ~~is authorized to promulgate~~ may propose

legislative rules for promulgation and emergency rules pursuant to the provisions of §29A-3-1 *et seq.* this code to establish appropriate training standards. The reserves may be provided with radio communication equipment for the purpose of maintaining contact with the sheriff's department or other law-enforcement agencies. The duties of the reserves shall be limited to crowd control or traffic control and direction within the county. In addition, the reserves may perform ~~such~~ any other duties of a nonlaw-enforcement nature ~~as are~~ designated by the sheriff or by a deputy sheriff designated and appointed by the sheriff for that purpose: *Provided*, That a member of the reserves may not aid or assist any law-enforcement officer in enforcing the statutes and laws of this state in any labor trouble or dispute between employer and employee.

(d) Members of the reserves may be uniformed; however, if ~~so~~ uniformed, the uniforms shall clearly differentiate these members from other law-enforcement deputy sheriffs.

(e) After appointment to the reserves, but prior to service each member of the reserves shall receive appropriate training and instruction in ~~their~~ his or her functions and authority as well as the limitations of authority. In addition, each member of the reserves shall annually receive in-service training.

(f) Each member of the reserve shall take the same oath as prescribed by section five, article IV of the Constitution of the State of West Virginia, but the taking of the oath does not serve to make the member a public officer.

(g) The county commission of each county shall provide for the bonding and liability insurance of each member of the reserve.

(h) A member of the reserve is not an employee of either the sheriff or of the county commission for any purpose or purposes, including, but not limited to, the purposes of workers' compensation, civil service, unemployment compensation, public employees retirement, public employees insurance, or for any other purpose. A member of the reserves may not receive any compensation or pay for any services performed as a member, nor

may a member use the designated uniform for any other similar work performed.

(i) Neither the county commission nor the sheriff is liable for any of the acts of any member of the reserves except in the case of gross negligence on the part of the county commission or sheriff in the appointment of the member or in the case of gross negligence on the part of either the sheriff or any of his or her deputies in directing any action on the part of the member.

Following discussion,

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

The bill (Eng. Com. Sub. for H. B. 2916), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3104, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

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

Eng. Com. Sub. for House Bill 4022, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

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

Eng. Com. Sub. for House Bill 4024, Relating generally to direct cremation or direct burial expenses for indigent persons.

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

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

On page three, section one, line forty-seven, by striking out the word “director” and inserting in lieu thereof the word “establishment”.

On motion of Senator Boso, the following amendment to the bill (Eng. Com. Sub. for H. B. 4024) was next reported by the Clerk and adopted:

On page three, section nine, lines forty-eight and forty-nine, by striking out the words “§30-6-9 of this code or a crematory operator certificated pursuant to §30-6-11 of this code that provided” and inserting in lieu thereof the words “this code that provides”.

The bill (Eng. Com. Sub. for H. B. 4024), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4079, Promulgating administrative rules by various executive or administrative agencies of the state.

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

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

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

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Accountancy.

The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-9-5 of this code, modified by the Board of Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2017, relating to the Board of Accountancy

(board rules and rules of professional conduct, 1 CSR 1), is authorized.

§64-9-2. Commissioner of Agriculture.

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §19-9-2 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2017, relating to the Commissioner of Agriculture (animal disease control, 61 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §19-2C-3(a) of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2017, relating to the Commissioner of Agriculture (auctioneers, 61 CSR 11B), is authorized with the following amendment:

On page one, subsection 4.1, by striking out “ten thousand dollars (\$10,000)” and inserting in lieu thereof “twenty-five thousand dollars (\$25,000)”.

(c) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §19-12D-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2017, relating to the Commissioner of Agriculture (noxious weeds, 61 CSR 14A), is authorized.

(d) The legislative rule filed in the State Register on July 17, 2017, authorized under the authority of §19-2B-3 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 18, 2017, relating to the Commissioner of Agriculture (inspection of meat and poultry, 61 CSR 16), is authorized.

(e) The legislative rule filed in the State Register on July 18, 2017, authorized under the authority of §19-13-3 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 18, 2017, relating to the Commissioner of Agriculture (West Virginia apiary law, 61 CSR 2), is authorized.

(f) The legislative rule filed in the State Register on July 17, 2017, authorized under the authority of §19-29-4 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2017, relating to the Commissioner of Agriculture (inspection of nontraditional, domesticated animals, 61 CSR 23D), is authorized.

(g) The legislative rule filed in the State Register on December 1, 2017, authorized under the authority of §19-2-5 of this code, modified by the Commissioner of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 19, 2017, relating to the Commissioner of Agriculture (schedule of charges for inspection services: fruit, 61 CSR 8B), is authorized.

§64-9-3. Athletic Commission.

(a) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2017, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2017, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 2), is authorized.

§64-9-4. Board of Licensed Dietitians.

The legislative rule filed in the State Register on July 24, 2017, authorized under the authority of §30-35-4 of this code, modified by the Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2017, relating to the Board of Licensed Dietitians (licensure and renewal requirements, 31 CSR 1), is authorized with the following amendments:

On page two, subsection 6.3, following the words “provisional permit renewal fee” by striking the words “as stated in 4.1.2.3.” and inserting in lieu thereof the words “\$50.”;

On page three, subsection 7.5, following the words “professional license reinstatement fee” by striking the words “as stated in 4.1.2.5.” and inserting in lieu thereof the words “as stated in paragraph 4.1.2.3. of this rule”;

On page three, paragraph 8.1.1.3, following the words “professional license reinstatement fee” by striking the words “as stated in 4.1.2.5.” and inserting in lieu thereof the words “as stated in paragraph 4.1.2.3. of this rule”;

On page three, subdivision 8.1.2, by renumbering the incorrectly numbered subsections of that section to 8.1.2.1, 8.1.2.2, and 8.1.2.3, respectively;

And,

On page three, in the incorrectly numbered section 8.1.1.3, following the words “reinstatement fee as stated” by striking the words “in 4.1.2.5.” and inserting in lieu thereof the words “in paragraph 4.1.2.3. of this rule.”

§64-9-5. Board of Hearing Aid Dealers.

The legislative rule filed in the State Register on July 26, 2017, authorized under the authority of §30-26-3 of this code, relating to the Board of Hearing Aid Dealers (rules governing the West Virginia Board of Hearing Aid Dealers, 8 CSR 1), is authorized.

§64-9-6. Board of Medicine.

(a) The legislative rule filed in the State Register on August 29, 2017, authorized under the authority of §30-3E-3 of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2017, relating to the Board of Medicine (licensure, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 1B), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2017, authorized under the authority of §30-3-7 of this code, relating to the Board of Medicine (continuing education for physicians and podiatric physicians, 11 CSR 6), is authorized with the amendment set forth below:

On page one, subsection 1.2 by striking out the words, “§30-3-12 and §30-1-7a” and inserting in lieu thereof “§30-3-7”.

(c) The Legislature directs the Board of Medicine, pursuant to the authority given to the board in §30-3-7 of this code, to promulgate the legislative rule filed in the State Register by the Board on June 5, 2017, relating to the Board (licensing and disciplinary procedures: physicians; podiatrists, 11 CSR 1A) with the following amendment:

On page 18, by striking out all of paragraph 12.1.ii.B. and re-lettering the remaining paragraphs.

§64-9-7. Board of Optometry.

The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-8-6 of this code, relating to the Board of Optometry (rules of the West Virginia Board of Optometry, 14 CSR 1), is authorized.

§64-9-8. Board of Osteopathic Medicine.

The legislative rule filed in the State Register on October 17, 2017, authorized under the authority of §30-3E-3 of this code,

modified by the Board of Osteopathic Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2017, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 2), is authorized.

§64-9-9. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-5-7 of this code, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 1), is authorized with the following amendments:

On page fifteen, subdivision 6.5.1 after the words, “submit a fee of” by striking out “\$125)” and inserting in lieu thereof “\$250”.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2017, relating to the Board of Pharmacy (pharmacist recovery networks, 15 CSR 10), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 6, 2017, relating to the Board of Pharmacy (immunizations administered by pharmacists and pharmacy interns, 15 CSR 12), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 18, 2017, relating to the Board of Pharmacy (centralized prescription processing, 15 CSR 14), is authorized.

(e) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 6, 2017, relating to the Board of Pharmacy (uniform controlled substances act, 15 CSR 2), is authorized.

(f) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 18, 2017, relating to the Board of Pharmacy (registration of pharmacy technicians, 15 CSR 7), is authorized.

(g) The legislative rule filed in the State Register on September 19, 2017, authorized under the authority of §60A-9-6 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 7, 2017, relating to the Board of Pharmacy (controlled substances monitoring program, 15 CSR 8), is authorized.

§64-9-10. Board of Examiners of Psychologists.

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-21-6 of this code, modified by the Board of Examiners of Psychologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2017, relating to the Board of Psychologists (fees, 17 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-21-6 of this code, modified by the Board of Examiners of Psychologists to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2017, relating to the Board of Examiners of Psychologists (requirements for licensure

as a psychologist and/or a school psychologist, 17 CSR 3), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-21-6 of this code, relating to the Board of Examiners of Psychologists (code of conduct, 17 CSR 6), is authorized.

§64-9-11. Real Estate Appraiser Licensing and Certification Board.

The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §30-38-9 of this code, relating to the Real Estate Appraiser Licensing and Certification Board (requirements for licensure and certification, 190 CSR 2), is authorized.

§64-9-12. Real Estate Commission.

(a) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §30-40-8 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2017, relating to the Real Estate Commission (licensing real estate brokers, associate brokers and salespersons and the conduct of brokerage business, 174 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §30-40-8 of this code, relating to the Real Estate Commission (schedule of fees, 174 CSR 2), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §30-40-8 of this code, modified by the Real Estate Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 6, 2017, relating to the Real Estate Commission (requirements for real estate courses, course providers and instructors, 174 CSR 3), is authorized with the amendment set forth below:

On page six, by striking out all of subsection 3.9. and inserting in lieu thereof a new subsection 3.9. to read as follows:

3.9. All approved pre-license and continuing education instructors shall complete annual instructor development workshops when offered by the Commission, unless the attendance is waived by the Commission or the individual is an out-of-state instructor who a) is approved by the National Association of Realtors (NAR) or b) holds a Distinguished Real Estate Instructor (DREI) designation.

§64-9-13 Board of Examiners for Registered Professional Nurses.

The Legislature directs the Board of Examiners of Registered Professional Nurses, pursuant to the authority given to the Board in §30-7-4 of this code, to promulgate the legislative rule filed in the State Register by the Board on July 9, 2009, relating to the Board (policies, standards and criteria for the evaluation and accreditation of colleges, departments or schools of nursing, 19 CSR 1), with the following amendments:

On page three, by striking out all of subdivision 4.1.b. and renumbering the remaining subdivisions;

On page six, by striking out all of subsection 8.3. and renumbering the remaining subsections;

And,

On page nine, by striking out all of subsection 13.3 and renumbering the remaining subsections.

§64-9-14. Division of Rehabilitation Services.

(a) The legislative rule effective on May 1, 2007, authorized under the authority of §18-10A-1 of this code, relating to the Division of Rehabilitation Services (case services, 130 CSR 1), is repealed.

(b) The legislative rule effective on May 1, 2007, authorized under the authority of §18-10A-1 of this code, relating to the Division of Rehabilitation Services (resources manual, 130 CSR 2), is repealed.

§64-9-15. Secretary of State.

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 12, 2017, relating to the Secretary of State (procedures for canvassing elections, 153 CSR 18), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 12, 2017, relating to the Secretary of State (procedures for handling ballots and counting write-in votes in counties using optical scan ballots, 153 CSR 27), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §3-3A-3 of this code, relating to the Secretary of State (vote by mail pilot project phase 2: voting by mail, 153 CSR 39), is authorized.

§64-9-16. Board of Veterinary Medicine.

(a) The legislative rule filed in the State Register on July 18, 2017, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 29, 2017, relating to the Board of Veterinary Medicine (organization and operation and licensing of veterinarians, 26 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 18, 2017, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections

of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2017, relating to the Board of Veterinary Medicine (certified animal euthanasia technicians, 26 CSR 5), is authorized with the following amendments:

On page two, after subdivision 2.1.e., by adding the following new subdivisions:

“2.1.f. Verification of the status of the applicant’s certification in each state or jurisdiction where he or she currently holds or ever held a certificate;

2.1.g. Verification that the applicant has never been denied a certification in another state or jurisdiction, had his or her certification restricted, suspended or revoked or been disciplined in any manner;”

And,

By renumbering the remaining subdivisions.

(c) The legislative rule filed in the State Register on July 18, 2017, authorized under the authority of §30-10-6 of this code, modified by the Board of Veterinary Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on August 29, 2017, relating to the Board of Veterinary Medicine (schedule of fees, 26 CSR 6), is authorized.

The bill (Eng. Com. Sub. for H. B. 4079), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4138, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

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

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

On page one, section sixteen-a, line ten, by striking out the words “So as to” and inserting in lieu thereof the word “To”;

On page one, section sixteen-a, line twelve, by striking out the word “thereof” and inserting in lieu thereof the words “of the dwelling”;

On page two, section sixteen-a, line twenty-seven, by striking out the word “and” and inserting in lieu thereof the word “shall”;

On page two, section sixteen-a, line thirty-six, by striking out the word “being”;

On page three, section sixteen-a, line fifty, by striking out the words “shall only be” and inserting in lieu thereof the words “is only”;

On page three, section sixteen-a, line fifty-nine, after the words “of the” by inserting the word “installed”;

And,

On page three, section sixteen-a, line fifty-nine, after the word “detector” by striking out the word “installed”.

The bill (Eng. Com. Sub. for H. B. 4138), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4142, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

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

On motions of Senators Ojeda, Baldwin, Unger, Beach, Jeffries, Stollings, and Romano, the following amendment to the bill was reported by the Clerk:

On page one, section four-b, by striking out all of lines four through nine and inserting in lieu thereof the following:

(b) The Legislature hereby directs that a pay equity salary adjustment and increase be provided to all employees of the Division of Corrections, Division of Juvenile Services, and the West Virginia Regional Jail and Correctional Facility Authority, regardless of where the employee reports to work. This salary adjustment shall be for a total of \$6,000 apportioned over a three-year period as follows:

Following discussion,

The question being on the adoption of the amendment offered by Senators Ojeda, Baldwin, Unger, Beach, Jeffries, Stollings, and Romano to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4142), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4169, Requiring certain establishments and facilities to post human trafficking assistance notices.

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

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

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

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-4. Human Trafficking Assistance Notices.

(a) For the purpose of assisting victims of human trafficking to obtain help and services, the following businesses and establishments shall post a notice meeting the requirements of this section:

(1) All locations licensed by the Alcohol Beverage Control Commission to allow consumption of alcoholic beverages, pursuant to chapter 60 of this code;

(2) Exotic entertainment facilities, as defined by §60-4-23 of this code;

(3) Primary airports;

(4) Passenger rail stations;

(5) Bus stations;

(6) Locations where gasoline and diesel fuel are sold;

(7) Emergency departments within hospitals;

(8) Urgent care centers;

(9) Locations at which farm labor contractors and day haulers work, if a physical facility is available at those locations upon or in which notice can be posted;

(10) Privately operated job recruitment centers;

(11) Rest areas located along interstate highways in this state, operated by the Division of Highways;

(12) Hotels; and

(13) Any other business or establishment that the director determines, by legislative rule, is an effective location to provide notice to victims of human trafficking.

(b) Requirements for posting of notice. – The notice required by this section must be posted in English, Spanish, and any other language determined by legislative rule by the director. The notice must be posted in each public restroom for the business or establishment, and either in a conspicuous place near the public entrance of the business or establishment or in another location in clear view of the public and employees, where similar notices are customarily posted.

(c) The director shall provide hyperlinks on the division's website to downloadable posters that are eight and one-half inches by 11 inches in size that provide information regarding the National Human Trafficking Resource Center and display the telephone number for the National Human Trafficking Resource Center hotline. These downloadable posters must be available in English, Spanish, and any other language determined by legislative rule by the director. These downloadable posters, if printed and posted, will satisfy the posting requirements of this section.

(d) Any law-enforcement officer, representative of the state health department or of a county health department, representative of the State Alcoholic Beverage Control Commission, representative of the Division of Labor, or other state representative inspecting a business or establishment or otherwise lawfully acting under his or her state authority, may notify, in writing, any business or establishment that it has failed to comply with the requirements of this section. If the business or establishment does not correct the violation within 30 days from the date of receipt of such written notice, the owner shall be charged with a violation of this section and upon conviction, is guilty of a misdemeanor offense and may be punished by a fine of not more than \$250. Upon a second or subsequent conviction, the owner is guilty of a misdemeanor and shall be punished by a fine of not more than \$500. The notice required by this subsection must be delivered to the noncomplying business or establishment by certified mail, with return receipt requested.

(e) For the purposes of this section, and unless a different meaning is plainly required:

(1) "Day hauler" means any person who is employed by a farm labor contractor to transport, or who, for a fee, transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person; *Provided*, That such term shall not include a person engaged in the production of agricultural products;

(2) "Farm labor contractor" means any person who, for a fee, employs workers to render personal services in connection with the

production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to such persons: *Provided*, That such term shall not include a person engaged in the production of agricultural products;

(3) "Hospital" shall have the same meaning as set forth in §16-2D-2(21) of this code.

(4) "Hotel" means any establishment which offers overnight accommodations to the public in exchange for a monetary payment;

(5) "Primary airport" shall have the same meaning as set forth in 49 U.S.C. § 47102(16); and

(6) "Production of agricultural products" means raising, growing, harvesting, or storing of crops; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock.

The bill (Eng. Com. Sub. for H. B. 4169), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4175, Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

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

Eng. Com. Sub. for House Bill 4199, Permitting a nursing home to use trained individuals to administer medication.

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

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

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

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5AA. MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL IN NURSING HOMES.

§16-5AA-1. Definitions.

The following terms are defined for this article:

“Administration of medication” means assisting a person in the ingestion, application, or inhalation of medications, or the supervision or providing of assistance of self-administered medication both according to the legibly written or printed directions of the health care professional or as written on the prescription label: *Provided*, That “administration” does not include judgment, evaluation, assessments, or injections of medication (except for prefilled insulin or insulin pens).

“Approved medication assistive personnel (AMAP)” means a staff member, who meets eligibility requirements, has successfully completed the required training and competency testing developed by the authorizing agency, and is considered competent by the authorized registered professional nurse to administer medications to residents of the nursing home in accordance with this article.

“Authorized practitioner” means a physician actively licensed under the provisions of §30-3-1 *et seq.* of this code or §30-14-1 *et seq.* of this code.

“Authorized registered professional nurse” means a person who is actively licensed pursuant to §30-7-1 *et seq.* of this code and meets the requirements to train and supervise approved medication assistive personnel pursuant to this article, and has completed and

passed the facility trainer/instructor course developed by the authorizing agency.

“Authorizing agency” means the Office of Health Facility Licensure and Certification.

“Delegation” means transferring to a competent individual, as determined by the authorized registered professional nurse, the authority to administer medications or perform a health maintenance task.

“Health care professional” means an allopathic physician, osteopathic physician, registered professional nurse, advanced practice registered nurse, physician’s assistant, dentist, optometrist, or respiratory therapist licensed pursuant to the provisions of Chapter 30 of this code.

“Health maintenance tasks” means:

- (1) Administering glucometer tests;
- (2) Administering gastrostomy tube feedings;
- (3) Administering enemas;
- (4) Performing tracheostomy and ventilator care for residents.

“Prescribing practitioner” means an individual who has prescriptive authority as provided in Chapter 30.

“Medication” means a drug, as defined in §60A-1-101 of this code, which has been prescribed by a health care professional to be ingested through the mouth, inhaled through the nose or mouth, applied to the outer skin, eye or ear, or applied through nose drops, or applied through vaginal or rectal suppositories. Medication does not mean a controlled substance listed in Schedule I as provided in §60A-2-204 of this code and Schedule II as provided in §60A-2-206 of this code.

“Nursing Home” means as defined in §16-5C-2 of this code.

“Registered professional nurse” means a person who is actively licensed pursuant to §30-7-1 et seq. of this code.

“Resident” means a person living in a nursing home who is in a stable condition.

“Self-administration of medication” means the act of a resident, who is independently capable of reading and understanding the labels of medication ordered by an authorized practitioner, in opening and accessing prepackaged drug containers, accurately identifying and taking the correct dosage of the drugs as ordered by the health care professional, at the correct time and under the correct circumstances.

“Self-administration of medication with assistance” means assisting residents who are otherwise able to self-administer their own medications except their physical disabilities prevent them from completing one or more steps in the process.

“Stable” means the resident’s health condition is predictable and consistent as determined by the registered professional nurse.

“Staff member” means an individual employed by a nursing home but does not include a health care professional acting within his or her scope of practice.

“Supervision of self-administration of medication” means a personal service which includes reminding residents to take medications, opening medication containers for residents, reading the medication label to residents, observing residents while they take medication, checking the self-administered dosage against the label on the container and reassuring residents that they have obtained and are taking the dosage as prescribed.

§16-5AA-2. Administration of medications

(a) The authorizing agency shall create a program for the administration of medications in nursing homes. The authorizing agency shall create the program in consultation with the appropriate agencies and licensing boards.

(b) Administration of medication shall be performed by an AMAP who has been trained and retrained every two years and who is subject to the supervision of and approval by an authorized registered professional nurse.

(c) After assessing the health status of a resident daily, a registered professional nurse, in collaboration with the resident's prescriber, may allow an AMAP to administer medication.

(d) Nothing in this article prohibits a staff member from administering medications or performing health maintenance tasks or providing any other prudent emergency assistance to aid any person who is in acute physical distress or requires emergency assistance.

§16-5AA-3. Exemption from licensure; statutory construction.

(a) A staff member who is not authorized by law to administer medication may do so in a nursing home if he or she meets the requirements of this article.

(b) An AMAP is exempt from the licensing requirements of Chapter 30 of this code.

(c) A health care professional remains subject to his or her respective licensing laws.

(d) This article shall not be construed to violate or conflict with Chapter 30 of this code.

§16-5AA-4. Instruction and training.

(a) The authorizing agency shall develop and approve training curricula and competency evaluation procedures for an AMAP. The authorizing agency shall consult with the West Virginia Board of Examiners for Registered Nurses in developing the training curricula and competency evaluation procedures.

(b) The program developed by the authorizing agency shall require that a person who applies to act as an AMAP shall:

(1) Hold a high school diploma or its equivalent;

(2) Be a Certified Nurse Aide with at least one year of full-time experience;

(3) Be certified in cardiopulmonary resuscitation and first aid;

(4) Participate in the initial training program developed by the authorizing agency;

(5) Pass a competency evaluation developed by the authorizing agency;

(6) Not have a statement on the stated administered nurse aide registry indicating that the staff member has been the subject of finding of abuse or neglect of a long-term care nursing home resident or convicted of the misappropriation of a resident's property; and

(7) Participate in a retraining program every two years.

(c) A nursing home may offer the training and competency evaluation program developed by the authorizing agency to its staff members. The training and competency programs shall be provided by the nursing home through a registered professional nurse.

(d) A registered professional nurse who is authorized to train staff members to administer medications in nursing homes shall:

(1) Possess a current active license as set forth in §30-7-1 et seq. of this code to practice as a registered professional nurse;

(2) Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications for the immediate two years prior to being authorized to train staff members;

(3) Be familiar with the nursing care needs of the residents as described in this article; and

(4) Have completed and passed the nursing home trainer/instructor course developed by the authorizing agency.

§16-5AA-5. Eligibility requirements of nursing home staff.

(a) In order to administer medication an AMAP shall:

(1) Determine the medication to be administered is in its original container in which it was dispensed by a pharmacist or the physician;

(2) Make a written record of assistance of medication with regard to each medication administered, including the time, route, and amount taken;

(3) Display the title “Approved Medication Assistive Personnel” at all time; and

(4) Comply with the legislative rules promulgated pursuant to §29A-3-1 et seq. of this code to implement the provisions of this article.

§16-5AA-6. Oversight of approved medication assistive personnel.

A nursing home using an AMAP shall establish an administrative monitoring system and shall comply with the applicable provisions of the legislative rules promulgated pursuant to §16-5O-11 of this code.

§16-5AA-7. Withdrawal of authorization.

(a) The registered professional nurse who supervises an AMAP may withdraw authorization for an AMAP to administer medications, if the nurse determines that the AMAP is not performing the function in accordance with the training and written instructions.

(b) The withdrawal of the authorization shall be documented and relayed to the nursing home and the authorizing agency. The agency shall remove the AMAP from the list of authorized individuals. The department shall maintain a list of the names of persons whose authorization has been withdrawn and the reasons for withdrawal of authorization. The list may be accessed by registered professional nurses and administrative personnel of nursing homes.

§16-5AA-8. Fees.

The authorizing agency may set and collect any appropriate fees necessary for the implementation of the provisions of this article pursuant to the legislative rules authorized by this article.

§16-5AA-9. Limitations on medication administration.

(a) An AMAP may not:

(1) Perform an injection, except that prefilled insulin or insulin pens may be administered;

(2) Administer irrigations or debriding agents to treat a skin condition or minor abrasions;

(3) Act upon verbal medication orders;

(4) Transcribe medication orders;

(5) Convert or calculate drug dosages;

(6) Administer medications to be given “as needed” as ordered by the health care professional unless the supervising nurse has first performed and documented a bedside assessment, and then the AMAP may administer the medication based on the written order with specific parameters which preclude independent judgment; or

(7) Perform health maintenance tasks.

(b) An AMAP’s primary responsibility shall be to administer medication when assigned. While performing medication administration he or she may respond to routine requests from residents as long as it would not conflict with the administration of medication. An AMAP may perform other resident care activities during such times that the AMAP is not engaged in, or scheduled to be engaged in, the administration of medication.

§§16-5AA-10. Permissive Participation.

The provisions of this article are not mandatory upon any nursing home or nursing home employee. A nursing home may not,

as a condition of employment, require any of its health care professionals to use AMAPs.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 7D. MEDICATION ASSISTIVE PERSONS.

§30-7D-1. Pilot program.

[Repealed]

§30-7D-2. Definitions.

[Repealed]

§30-7D-3. Certificate required.

[Repealed]

§30-7D-4. Designated facilities.

[Repealed]

§30-7D-5. Qualifications.

[Repealed]

§30-7D-6. Scope of work.

[Repealed]

§30-7D-7. Renewal of certifications.

[Repealed]

§30-7D-8. Disciplinary actions.

[Repealed]

§30-7D-9. Offenses and Penalties.

[Repealed]

§30-7D-10. Injunction.

[Repealed]

§30-7D-11. Medication Assistive Person Advisory Committee.

[Repealed]

§30-7D-12. Applicability of article.

[Repealed]

§30-7D-13. Rulemaking authority.

[Repealed]

The bill (Eng. Com. Sub. for H. B. 4199), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4207, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

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

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

On page one, section twenty, line fifteen, by striking out the words "I have" and inserting in lieu thereof the words "he or she has";

On page two, section twenty, line seventeen, by striking out the word "I" and inserting in lieu thereof the words "he or she";

And,

On page two, section twenty, line seventeen, by striking out the word "my" and inserting in lieu thereof the words "his or her".

The bill (Eng. Com. Sub. for H. B. 4207), as amended, was then ordered to third reading.

Eng. House Bill 4285, Relating to the West Virginia Safe Mortgage Licensing Act.

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

Eng. House Bill 4332, Relating to home peritoneal renal dialysis.

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

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

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

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS,
PHARMACY INTERNS AND PHARMACIES.**

§30-5-22. Pharmacies to be registered.

(a) A pharmacy, an ambulatory health care facility, and a charitable clinic pharmacy shall register with the board.

(b) A person desiring to operate, maintain, open or establish a pharmacy shall register with the board.

(c) To be eligible for a registration to operate, maintain, open or establish a pharmacy the applicant shall:

- (1) Submit a written application to the board;
- (2) Pay all applicable fees;
- (3) Designate a pharmacist-in-charge; and
- (4) Successfully complete an inspection by the board.

(d) A separate application shall be made and separate registration issued for each location.

(e) Registration ~~are~~ is not transferable.

(f) Registration expire and shall be renewed annually.

(g) If a registration expires, the pharmacy shall be reinspected and an inspection fee is required.

(h) A registrant shall employ a pharmacist-in-charge and operate in compliance with the legislative rules governing the practice of pharmacist care and the operation of a pharmacy.

(i) The provisions of this section do not apply to the sale of nonprescription drugs which are not required to be dispensed pursuant to a practitioner's prescription.

(j) The provisions of this section do not apply to the sale or distribution of dialysate, drugs or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease, provided the requirements of §30-5-29 of this code are met.

§30-5-29. Limitations of article.

(a) This article may not be construed to prevent, restrict or in any manner interfere with the sale of nonnarcotic nonprescription drugs which may be lawfully sold without a prescription in accordance with the United States Food, Drug and Cosmetic Act or the laws of this state, nor may any legislative rule be adopted by the board which shall require the sale of nonprescription drugs by a licensed pharmacist or in a pharmacy or which shall prevent, restrict or otherwise interfere with the sale or distribution of such drugs by any retail merchant. The sale or distribution of nonprescription drugs may not be deemed to be improperly engaging in the practice of pharmacist care.

(b) This article may not be construed to interfere with any legally qualified practitioner of medicine, dentistry or veterinary medicine, who is not the proprietor of the store for the dispensing

or retailing of drugs and who is not in the employ of such proprietor, in the compounding of his or her own prescriptions or to prevent him or her from supplying to his or her patients such medicines as he or she may deem proper, if such supply is not made as a sale.

(c) The exception provided in subsection (b) of this section does not apply to an ambulatory health care facility: *Provided*, That a legally licensed and qualified practitioner of medicine or dentistry may supply medicines to patients that he or she treats in a free clinic and that he or she deems appropriate.

(d) This article may not be construed to prevent, restrict or in any manner interfere with the sale or distribution of dialysate, drugs or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease, nor may any legislative rule be adopted by the board which shall require the sale or distribution of such peritoneal dialysis products by a licensed pharmacist or in a pharmacy, provided the following criteria are met:

(1) The dialysate, drugs or devices are approved or cleared by the Food and Drug Administration, as required by federal law.

(2) The dialysate, drugs or devices are lawfully held by a manufacturer or a manufacturer's agent that has obtained the proper permit from the board as a manufacturer or wholesale distributor, or third-party logistics provider.

(3) The dialysate, drugs or devices are held and delivered in their original, sealed packaging from the manufacturing facility.

(4) The dialysate, drugs or devices are delivered only upon receipt of a physician's prescription by a licensed pharmacy, and the transmittal of an order from the licensed pharmacy to the manufacturer or the manufacturer's agent; and

(5) The manufacturer or a manufacturer's agent delivers the dialysate, drugs, or devices directly to:

(A) A patient with chronic kidney failure, or his/her designee, for the patient's self-administration of the dialysis therapy; or

(B) A health care provider or institution for administration or delivery of the dialysis therapy to a patient with chronic kidney failure.

(e) The provisions of §30-5-29(d) of this code shall not alter the manner in which dialysate, drugs, devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease are billed by Medicaid under the current pharmacy benefit structure.

(f) A person who handles a prescription drug only during the point of sale to provide the prescription drug to a patient and accept payment is not subject to the licensure requirements of this article. This handling process includes the cashier having access to the pharmacy's operating system to verify unique information for each patient. A pharmacy may require an individual to complete a criminal background check before he or she is hired.

The bill (Eng. H. B. 4332), as amended, was then ordered to third reading.

Eng. House Bill 4385, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

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

Eng. House Bill 4433, Declaring certain claims against an agency of the state to be moral obligations of the state.

On second 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.

Eng. Com. Sub. for House Bill 4619, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

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

Eng. Com. Sub. for House Bill 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

Eng. Com. Sub. for House Bill 2654, Expanding county commissions' ability to dispose of county or district property.

Eng. Com. Sub. for House Bill 2693, Relating to state ownership of wildlife.

Eng. Com. Sub. for House Bill 2983, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

Eng. Com. Sub. for House Bill 3005, Relating to regulation of unmanned aircraft systems.

Eng. Com. Sub. for House Bill 4180, Relating to wildlife resources.

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

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

Eng. Com. Sub. for House Bill 4230, Relating to credit for reinsurance.

Eng. Com. Sub. for House Bill 4236, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

Eng. Com. Sub. for House Bill 4289, Relating to disability pensions of municipal employees.

Eng. Com. Sub. for House Bill 4343, Relating to the delivery of financial statements to bank shareholders.

Eng. Com. Sub. for House Bill 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

Eng. House Bill 4402, Relating to the prevention of sexual abuse of children.

Eng. House Bill 4410, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

Eng. House Bill 4422, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

Eng. House Bill 4436, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

Eng. Com. Sub. for House Bill 4444, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

Eng. Com. Sub. for House Bill 4473, Relating to use of state funds for advertising to promote a public official or government office.

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

Eng. House Bill 4621, Relating to removing reference to certain entities with respect to work.

And,

Eng. House Bill 4624, Relating to West Virginia coordinate systems.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Beach, Romano, Ferns, Woelfel, Boso, Facemire, Karnes, and Unger.

(Senator Trump in the Chair.)

Remarks were made by Senator Unger.

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

Remarks were made by Senators Unger, Blair, and Ojeda.

Pending announcement of meetings of standing committees of the Senate,

Senator Ferns then moved that the Senate adjourn until tomorrow, Friday, March 2, 2018, at 11 a.m.

The question being on the adoption of Senator Ferns' aforesaid motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Jeffries, Prezioso, Romano, Stollings, Unger, and Woelfel—8.

Absent: Facemire, Mann, Ojeda, Palumbo, Plymale, and Smith—6.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' motion had prevailed.

In accordance with the foregoing motion, at 3:03 p.m., the Senate adjourned until tomorrow, Friday, March 2, 2018, at 11 a.m.

FRIDAY, MARCH 2, 2018

The Senate met at 11:12 a.m.

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

Prayer was offered by the Reverend Michael Knotts, Saulsville Baptist Church, Saulsville, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Roman W. Prezioso, Jr., a senator from the thirteenth district.

Pending the reading of the Journal of Thursday, March 1, 2018,

At the request of Senator Weld, 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.

At the request of Senator Ferns, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant Kerry and Harrison Baldwin, the family of the Honorable Stephen Baldwin, a senator from the tenth district, and Kamryn Long, the granddaughter of the Honorable Donna J. Boley, a senator from the third district, privileges of the floor for the day.

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 181, Authorizing MAPS promulgate legislative rules.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

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

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

§64-6-1. Fire Commission.

The legislative rule filed in the State Register on July 25, 2017, authorized under the authority of §29-3-5a of this code, modified by the State Fire Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2017, relating to the State Fire Commission (hazardous substance emergency response training programs, 87 CSR 3), is authorized.

§64-6-2. State Fire Marshal.

The Legislature directs the State Fire Marshal, pursuant to the authority given to the division in §29-3B-5 of this code, to promulgate the legislative rule filed in the State Register by the State Fire Marshal on January 26, 2018, relating to the State Fire Marshal (electrician licensing rules, 103 CSR 5).

§64-6-3. Governor's Committee on Crime, Delinquency and Correction.

(a) The legislative rule filed in the State Register on October 20, 2017, authorized under the authority of §30-29-3 of this code, modified by the Governor's Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 13, 2017, relating to the Governor's Committee on Crime, Delinquency and Correction (law-enforcement training and certification standards, 149 CSR 2), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §48-27-1102 of this code, modified by the Governor's Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 14, 2017, relating to the Governor's Committee on Crime, Delinquency and Correction (protocol for law-enforcement response to domestic violence, 149 CSR 3), is authorized with the following amendment:

On page 13, section 6.4.9(e), by striking through the words "As a general rule, do" and inserting in lieu thereof the words "It is recommended to"

And

On page 13, section 6.4.10, by inserting after the word "children" the words "the following is recommended"

(c) The legislative rule effective on May 10, 2006, authorized under the authority of §17G-2-3 of this code, relating to the Governor's Committee on Crime, Delinquency and Correction (motor vehicle stop data collection standards for the study of racial profiling, 149 CSR 5), is repealed.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 181, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann, Maroney, and Weld—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 181) passed with its title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann, Maroney, and Weld—3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 181) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 348, Allowing for disposal of service weapons of special DNR police officers.

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

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

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

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

§20-7-1d. Awarding service ~~revolver~~ weapon upon retirement; disposal of service weapon when replaced due to routine wear; and furnishing uniform for burial.

(a) Upon the retirement of any full-time salaried natural resources police officer, the chief natural resources police officer shall award to the retiring natural resources police officer his or her service ~~revolver~~ weapon, without charge, upon determining:

(1) That the natural resources police officer is retiring honorably with at least 25 years of recognized law-enforcement service as determined by the chief natural resources police officer; or

(2) That the natural resources police officer is retiring with less than 25 years of service based upon a determination that he or she is totally physically disabled as a result of service with the division.

(b) Notwithstanding the provisions of subsection (a) of this section, the chief natural resources police officer may not award a service ~~revolver~~ weapon to any natural resources police officer who has been declared mentally incompetent by a licensed physician or any court of law, or who, in the opinion of the chief natural resources police officer, constitutes a danger to any person or the community.

(c) The disposal of law-enforcement service weapons, when replaced due to routine wear, does not fall under the jurisdiction of the agency for surplus property, within the Purchasing Division of the Department of Administration. The chief natural resources police officer may offer these surplus weapons for sale to any active or retired Division of Natural Resources law-enforcement officer, at fair market value, with the proceeds from any sales used to offset the cost of the new weapons.

(d) Upon the death of any current or honorable honorably retired natural resources police officer, the chief natural resources police officer shall, upon request of the deceased officer's family, furnish a full uniform for burial of the deceased officer.

(e) Notwithstanding the foregoing, this section does not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.

§20-7-1f. Awarding service ~~revolver~~ weapon to special natural resources police officers upon retirement; disposal of service weapon when replaced due to routine wear; furnishing uniform for burial.

(a) Upon the retirement of any special natural resources police officer selected and appointed pursuant to §20-7-1, the chief of the officer's section shall award to the retiring special natural resources police officer his or her service ~~revolver~~ weapon, without charge, upon determining:

(1) That the special natural resources police officer is retiring honorably with at least 25 years of recognized special law enforcement service as determined by the chief natural resources police officer; or

(2) That the special natural resources police officer is retiring with less than 25 years of service based upon a determination that he or she is totally physically disabled as a result of service with the division.

(b) Notwithstanding the provisions of subsection (a) of this section, the section chief may not award a service ~~revolver~~ weapon

to any special natural resources police officer who has been declared mentally incompetent by a licensed physician or any court of law, or who, in the opinion of the chief natural resources police officer constitutes a danger to any person or the community.

(c) Upon the death of any current or honorably retired special natural resources police officer, the respective chief shall, upon request of the deceased officer's family, furnish a full uniform for burial of the deceased officer.

(d) The disposal of special natural resources police officer service weapons, when replaced due to routine wear, does not fall under the jurisdiction of the agency for surplus property, within the Division of Purchasing of the Department of Administration. The chief of the section of Parks and Recreation and the chief of the Wildlife Resources Section of the Division of Natural Resources may offer these surplus weapons for sale to any active or retired special natural resources police officer, at fair market value, with the proceeds from any sales used to offset the cost of the new weapon.

(e) Notwithstanding the foregoing, this section does not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 348—A Bill to amend and reenact §20-7-1d and §20-7-1f of the Code of West Virginia, 1931, as amended, all relating to awarding service weapons to natural resources police officers and special natural resources police officers upon retirement; modifying terms to reference weapons rather than revolvers; modifying provisions relating to the disposal of service weapons when they are replaced due to routine wear; exempting weapons replaced due to routine wear from surplus property provisions; authorizing the sale of service weapons that are being replaced due to routine wear to special natural resources

police officers at fair market value; and providing that the provisions of these sections do not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.

Senator Ferns moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 348, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: Palumbo and Romano—2.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 348) passed with its House of Delegates amended title.

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

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

Com. Sub. for Senate Concurrent Resolution 11, Evans Center for Excellence in Aircraft Maintenance.

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

Eng. Com. Sub. for House Bill 3004, Relating to filling vacancies in certain offices.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

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

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Trump, Weld, and Baldwin.

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

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

House Concurrent Resolution 16—Requesting the Division of Highways to name bridge number 14-50/9-0.25 (14A130), locally known as Baptism Bridge, carrying County Route 50/9 over the Little Cacapon River in Hampshire County, located in the now nonexistent community of Frenchburg, the “Frenchburg Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 45—Requesting the Division of Highways to name bridge number 06-64-20.19 (EB-WB) (06A238, 06A237) (38.42087, -82.25220), locally known as Indian Meadows Bridges EB & WB, carrying Interstate 64 over the Mud River in Cabell County, West Virginia, the “U. S. Air Force 2nd Lt. Richard E. Tyson Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 51—Requesting the Division of Highways to name bridge number 17-50-14.25 (17A195) (39.28950, -80.35136), locally known as the Adamston Bridge, carrying U.S. 50 over the West Fork River in Harrison County, the “Gill Brothers World War II Veterans’ Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 62—Requesting the Division of Highways to name bridge number 38-39-21.66 (38A053), locally known as Marlinton City Bridge, carrying WV 39 over the Greenbrier River in Pocahontas County, be named the “Pocahontas County Veterans Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 70—Requesting the Division of Highways to name bridge number 17-24-7.22 (17A148), locally known as Meadowbrook Bridge, carrying County Route 24 over West Fork River in Harrison County, the “U. S. Marine Sgt. Stephen E. Drummond Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

Com. Sub. for House Concurrent Resolution 83—Requesting the Division of Highways to name a portion of WV Route 3, starting at the eastern city limits of Union and ending at the intersection with CR 11, Keenan Road, in Monroe County, the “Vietnam Veterans Memorial Highway”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 84—Requesting the Department of Health and Human Resources and the Bureau for Medical Services review and update Medicaid reimbursement rates for ground and air ambulance services.

Referred to the Committee on Health and Human Resources.

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

House Concurrent Resolution 86—Requesting the Division of Highways name that portion of U.S. Route 119 in Princeton, beginning at Monroe Street and ending at Clay Street, in Mercer County, the “Bluefield Police Lt. Aaron L. Crook Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 88—Requesting the Division of Highways to name bridge number 35-40-0.04 (35A032), locally known as Elbys Bridge, carrying US 40 Spur over Wheeling Creek in Ohio County, the “U. S. Air Force Capt. Clarence Virgil Slack, Jr. Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

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

House Concurrent Resolution 91—Requesting the Division of Highways to name bridge number 48-18-10.11 (48A104), locally known as Centerville Bridge, carrying WV 18 over Middle Island Creek in Tyler County, the “U.S. Navy CAPT Homer Leroy Smith Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 2, 2018, he had approved **Enr. House Bill 4380**, **Enr. House Bill 4381**, **Enr. House Bill 4384**, and **Enr. House Bill 4386**.

The Senate proceeded to the fourth order of business.

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 2464, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

And has amended same.

Eng. Com. Sub. for House Bill 4368, Relating to voluntary assignments of wages by state employees who have been overpaid.

And has amended same.

Eng. House Bill 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

And has amended same.

Eng. House Bill 4462, Allowing off duty members and officers of the department of public safety to guard private property.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4502, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

And has amended same.

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

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

Eng. Com. Sub. for House Bill 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4023, Relating to the regulation of dialysis technicians.

Eng. House Bill 4025, Permitting reciprocity for licensure as a pharmacy technician.

Eng. Com. Sub. for House Bill 4027, Creating an education permit for allopathic physician resident.

Eng. House Bill 4178, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

And,

Eng. Com. Sub. for House Bill 4279, Relating to adult protective services system.

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

Respectfully submitted,

Tom Takubo,
Chair.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4197, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4509, Relating to the establishment of substance abuse treatment facilities.

And has amended same.

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

Respectfully submitted,

Tom Takubo,
Chair.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4478, Authorizing public schools to distribute excess food to students.

And has amended same.

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

Respectfully submitted,

Kenny Mann,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4522, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Mann, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

Eng. House Bill 4622, Relating to authorizing legislative rules regarding higher education.

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

Respectfully submitted,

Kenny Mann,
Chair.

The Senate proceeded to the sixth order of business.

Senators Palumbo, Stollings, Prezioso, Plymale, and Boso offered the following resolution:

Senate Resolution 59—Recognizing the dedicated and honorable public service of Linda Gibson.

Whereas, Linda Gibson was born in Charleston, West Virginia, the daughter of Lee George and Goldie Warner Thornton; and

Whereas, Linda Gibson attended Nitro High School and then the Charleston School of Commerce; and

Whereas, Linda Gibson began working for the West Virginia Legislature in 1966, and served the West Virginia Senate for a total of 49 years. She has served under 9 Senate Presidents and 7 Senate Clerks; and

Whereas, During her storied tenure, Linda Gibson demonstrated the highest degree of professionalism while serving as the Bill Status and History Clerk in the Senate Clerk's office for more than three decades; and

Whereas, After her retirement from the Senate, Linda Gibson continued her public service as a per diem secretary for the Honorable Earl Ray Tomblin, 49th President of the West Virginia Senate and Lieutenant Governor of the State of West Virginia, and for the Honorable Corey Palumbo, Chair of the West Virginia Senate Judiciary Committee; and

Whereas, In addition to her legislative service, Linda Gibson has served the City of Hurricane for 35 years as City Recorder, and the past 25 years as Treasurer of the Hurricane Development Authority; and

Whereas, Linda Gibson's reputation as a dedicated and honorable public servant has led to her holding many positions of trust and responsibility outside the public sector, including serving as President of the Hurricane Woman's Club, and acting in many capacities with the Forrest Burdette Memorial United Methodist Church; and

Whereas, In her career of public service, Linda Gibson has been a role model and mentor to many, and has led by example in her pursuit of providing first-class public service to the citizens of Hurricane and West Virginia; and

Whereas, Linda Gibson has earned the respect and deep affection of her colleagues and all people who have crossed her path, and her high degree of integrity exemplifies the public's expectations for the conduct of a public servant; and

Whereas, After nearly a half-century of public service, Linda Gibson has decided to join her beloved husband of 58 years, Jack Gibson, in retirement, bringing an end to her distinguished career in the West Virginia Senate; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the dedicated and honorable public service of Linda Gibson; and, be it

Further Resolved, That the Senate expresses its most sincere gratitude and appreciation to Linda Gibson for her service to the Senate, the City of Hurricane, and the citizens of the State of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Linda Gibson.

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

The question being on the adoption of the resolution (S. R. 59), and on this question, Senator Blair 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, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 59) adopted.

Thereafter, at the request of Senator Plymale, and by unanimous consent, the remarks by Senator Palumbo regarding Senate Resolution 59 were ordered extended in the Journal as follows:

SENATOR PALUMBO: Thank you, Mr. President.

It's my honor today to stand up in support of this resolution. Linda Gibson is someone who's dedicated her life to this state. She served the State of West Virginia for 49 years, working for the state, many of which, or most of which, have been for the State Senate. Served under nine different state Senate Presidents, including yourself, Mr. President, and seven different Senate Clerks, including our current clerk, Lee Cassis.

She was secretary for a long time for Governor Earl Ray Tomblin, when he was Senate President. Also worked in the Judiciary committee for several years and just did a wonderful job. She's just one of the most friendly people that's ever worked in this building. I think she's loved and admired by so many in this capitol. I think she served as a second mother for many people who work here.

She's truly the epitome of a dedicated public servant for the State of West Virginia. She served in the City of Hurricane for many years as the Recorder and the Treasurer. And her husband,

Jack, obviously, also worked for the Legislature for many years as well.

We certainly miss seeing you around here, Linda, very much, your smiling face, your warmth that you display to everyone. But, truly appreciate your tremendous service for this state and, particularly, the State Senate—dedicating 49 years, which, you know, I'm sure other employees have done that, but, certainly, not very many.

So, thank you for all you've done for the State Senate and thank you for being here and I urge adoption of the resolution.

On motion of Senator Ferns, at 11:49 a.m., the Senate recessed to present Senate Resolution 59.

The Senate reconvened at 11:55 a.m. today and resumed business under the sixth order.

Senators Clements, Stollings, Cline, Prezioso, Plymale, and Boso offered the following resolution:

Senate Resolution 60—Designating March 2, 2018, as Suicide Prevention and Awareness Day at the Legislature.

Whereas, West Virginia ranks eleventh in the nation for deaths by suicide; and

Whereas, In West Virginia, suicide is the second leading cause of death for youth and young adults ages 10-34; the third leading cause of death for adults ages 35-44; the sixth leading cause for adults ages 45-54; the eighth leading cause for adults ages 55-64; and tenth leading cause of death overall; and

Whereas, Upwards of 90 percent of individuals who ultimately die by suicide were living with a diagnosable mental health condition at the time of their death; and

Whereas, The American Foundation for Suicide Prevention is a voluntary health organization that gives those affected by suicide

a nationwide community empowered by research, education, and advocacy to take action against this leading cause of death; and

Whereas, The West Virginia Chapter of the American Foundation for Suicide Prevention was chartered in 2015, and is now in its third year of existence; and

Whereas, The West Virginia Chapter of the American Foundation for Suicide Prevention has developed many important suicide prevention programs and initiatives and are dedicated to saving lives and bringing hope to those affected by suicide, through research, education, advocacy, and resources for those who have lost or struggle; and

Whereas, Volunteers serve the entire state using their life's experiences as fuel for their fire in an effort to ensure that fewer West Virginia families are impacted by suicide loss; and

Whereas, The vision of the American Foundation for Suicide prevention is a world without suicide and it is their goal to reduce the rate of suicide by 20 percent by the year 2025; and

Whereas, Raising awareness is an integral part of eliminating suicide; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 2, 2018, as Suicide Prevention and Awareness Day at the Legislature; and, be it

Further Resolved, That the Senate acknowledges the important work of raising awareness to prevent suicide by the volunteers of the American Foundation for Suicide Prevention West Virginia Chapter; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia Chapter of the American Foundation for Suicide Prevention.

At the request of Senator Clements, 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 Senators Clements, Boso, and Stollings regarding the adoption of Senate Resolution 60 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 12:03 p.m., the Senate recessed to present Senate Resolution 60.

The Senate reconvened at 12:07 p.m. today and resumed business under the sixth order, which agenda includes the making of main motions.

Senator Prezioso moved that the Senate Committee on Finance be discharged from further consideration of

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Following discussion,

The question being on the adoption of Senator Prezioso's aforestated motion, and on this question, Senator Prezioso demanded the yeas and nays.

Senator Ferns moved that Senator Prezioso's aforestated motion be tabled.

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

The question now being on the adoption of Senator Ferns' motion to table Senator Prezioso's aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Arvon, Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Mann—1.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforesaid motion had prevailed and Senator Prezioso's motion was thereafter tabled.

At the request of Senator Plymale, and by unanimous consent, Senator Plymale addressed the Senate regarding Engrossed Committee Substitute for House Bill 4145 and the agenda for the next meeting of the Committee on Finance.

Following a point of inquiry to the President,

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 42, US Navy Veteran Samuel H. Slack, Jr., Memorial Bridge.

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

Senate Concurrent Resolution 43, US Army T-4 CE Caesar Bango Memorial Bridge.

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

Senate Concurrent Resolution 44, Bluefield Police LT Aaron L. Crook Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

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

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

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2483) passed.

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

Eng. Com. Sub. for House Bill 2483—A Bill to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as amended, all relating to requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any person in its custody that has been transferred to adult jurisdiction of the circuit court and who turns 18 years of age; requiring transfer of juvenile under adult jurisdiction from a juvenile facility upon reaching 18 years of age if he or she has either been convicted or is in a pretrial status; directing the Division of Juvenile Services to notify the circuit court 180 days or as soon as practicable prior to a juvenile reaching 18 years of age; requiring the circuit court to set and conduct a hearing prior to the transfer to an adult correctional facility; making provisions of law related to victims applicable to

proceedings held pursuant to the section; prohibiting persons 18 or older that commit an adult offense while under the custody of the Division of Juvenile Services from being returned to the placement in a juvenile facility; requiring the court to conduct a hearing prior to the completion of the adult sentence; and prohibiting a court from remanding a person who has reached 18 years of age and completed serving an adult sentence to a juvenile facility.

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

Eng. Com. Sub. for House Bill 2694, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2694) passed with its title.

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

Eng. Com. Sub. for House Bill 2696, Relating to crossbow hunting.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2696) passed with its title.

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

Eng. Com. Sub. for House Bill 2843, Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2843 pass?”

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

The nays were: Baldwin, Beach, Boso, Jeffries, Ojeda, Prezioso, Romano, Stollings, Unger, and Woelfel—10.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2843) passed with its title.

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

Eng. Com. Sub. for House Bill 2890, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2890) passed with its title.

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

Eng. Com. Sub. for House Bill 2916, Authorizing certain first responders to carry firearms.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2916 pass?”

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2916) passed.

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

Eng. Com. Sub. for House Bill 2916—A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6; and to amend and reenact §61-3a of said code, all relating to authorizing investigators employed by the Attorney General to carry a concealed handgun while engaged in official duties; requiring such investigators to obtain and maintain a concealed handgun license; establishing training and recertification requirements; authorizing certain reserve deputy sheriffs to carry firearms; requiring written permission of the sheriff to carry a firearm while acting as a reserve deputy sheriff; authorizing the carrying of a firearm by on-duty reserve deputies only for purposes of defense of self or others, establishing qualifications to carry; specifying the training required for such persons to be eligible to carry a firearm; and allowing for reimbursement for the cost of the training.

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

Eng. Com. Sub. for House Bill 3104, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3104) passed with its title.

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

Eng. Com. Sub. for House Bill 4022, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4022 pass?”

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4022) passed with its title.

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

Eng. Com. Sub. for House Bill 4024, Relating generally to direct cremation or direct burial expenses for indigent persons.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4024) passed with its title.

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

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4024) takes effect July 1, 2018.

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

Eng. Com. Sub. for House Bill 4079, Promulgating administrative rules by various executive or administrative agencies of the state.

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

Pending discussion,

(Senator Blair in the Chair.)

(Senator Weld in the Chair.)

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

The question being “Shall Engrossed Committee Substitute for House Bill 4079 pass?”

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4079) passed.

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

Eng. Com. Sub. for House Bill 4079—A Bill to amend and reenact §64-9-1, §64-9-2, §64-9-3, §64-9-4, §64-9-5, §64-9-6, §64-9-7, §64-9-8, §64-9-9, §64-9-10, §64-9-11, §64-9-12, §64-9-13, §64-9-14, §64-9-15, and §64-9-16 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing certain agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies to promulgate certain legislative rules with amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; repealing certain legislative rules; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to animal disease control; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to auctioneers; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to noxious weeds; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of meat and poultry; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to West Virginia apiary law; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to inspection of nontraditional, domesticated animals; authorizing the Commissioner of Agriculture to promulgate a legislative rule relating to schedule of charges for inspection services; fruit; authorizing the Athletic Commission to promulgate a legislative rule relating to administrative rules of the West Virginia State Athletic

Commission; authorizing the Athletic Commission to promulgate a legislative rule relating to regulation of mixed martial arts; authorizing the Board of Licensed Dietitians to promulgate a legislative rule relating to licensure and renewal requirements; authorizing the Board of Hearing Aid Dealers to promulgate a legislative rule relating to rules governing the West Virginia Board of Hearing Aid Dealers; authorizing the Board of Medicine to promulgate a legislative rule relating to licensure, disciplinary and complaint procedures, continuing education and physician assistants; authorizing the Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatric physicians; directing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures: physicians; podiatrists; authorizing the Board of Optometry to promulgate a legislative rule relating to rules of the West Virginia Board of Optometry; authorizing the Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants; authorizing the Board of Pharmacy to promulgate a legislative rule relating to licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to pharmacist recovery networks; authorizing the Board of Pharmacy to promulgate a legislative rule relating to immunizations administered by pharmacists and pharmacy interns; authorizing the Board of Pharmacy to promulgate a legislative rule relating to centralized prescription processing; authorizing the Board of Pharmacy to promulgate a legislative rule relating to uniform controlled substances act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to registration of pharmacy technicians; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the controlled substances monitoring program; authorizing the Board of Psychologists to promulgate a legislative rule relating to fees; authorizing the Board of Psychologists to promulgate a legislative rule relating to requirements for licensure as a psychologist and/or a school psychologist; authorizing the Board of Psychologists to promulgate a legislative rule relating to code of conduct; authorizing the Board of Real Estate Appraiser Licensing and Certification to promulgate a legislative rule relating to requirements for licensure and certification; authorizing the Real

Estate Commission to promulgate a legislative rule relating to licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business; authorizing the Real Estate Commission to promulgate a legislative rule relating to schedule of fees; authorizing the Real Estate Commission to promulgate a legislative rule relating to requirements for real estate courses, course providers and instructors; directing the Board of Examiners for Registered Professional Nurses to promulgate a legislative rule relating to policies, standards and criteria for the evaluation and accreditation of colleges, departments or schools of nursing; repealing a Division of Rehabilitation Services rule relating to case services; repealing a Division of Rehabilitation Services rule relating to a resources manual; authorizing the Secretary of State to promulgate a legislative rule relating to procedures for canvassing elections; authorizing the Secretary of State to promulgate a legislative rule relating to procedures for handling ballots and counting write-in votes in counties using optical scan ballots; authorizing the Secretary of State to promulgate a legislative rule relating to vote by mail pilot project phase 2: Voting by Mail; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to organization and operation and licensing of veterinarians; authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to certified animal euthanasia technicians; and authorizing the Board of Veterinary Medicine to promulgate a legislative rule relating to schedule of fees.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4079) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4138, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4138) passed with its title.

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

Eng. Com. Sub. for House Bill 4142, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan,

Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4142) passed with its title.

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

Eng. Com. Sub. for House Bill 4169, Requiring certain establishments and facilities to post human trafficking assistance notices.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4169) passed.

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

Eng. Com. Sub. for House Bill 4169—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9A-4, relating to requiring certain businesses and establishments to post human trafficking assistance notices; establishing where notices must be posted and contents of notice; requiring the Director of the Division of Justice and Community Services to provide certain resources for giving notice on the Division's website; authorizing certain state and local agents to give notice of violations; providing for criminal penalties for failure to comply with posting of notices once given notice of lawful duty to post; and defining terms.

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

Eng. Com. Sub. for House Bill 4175, Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4175) passed with its title.

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

Eng. Com. Sub. for House Bill 4199, Permitting a nursing home to use trained individuals to administer medication.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4199 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—24.

The nays were: Baldwin, Beach, Boso, Facemire, Jeffries, Ojeda, Romano, and Unger—8.

Absent: Mann and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4199) passed.

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

Eng. Com. Sub. for House Bill 4199—A Bill to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12, and §30-7D-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, §16-5AA-6, §16-5AA-7, §16-5AA-8, §16-5AA-9, and §16-5AA-10, all relating to permitting a nursing home to use trained individuals to administer medication under the direction of a registered professional nurse; defining terms; authorizing an AMAP to administer medication in nursing home; providing

certain exemptions from chapter thirty licensing requirements; establishing requirements for training curricula and competency evaluation procedures; establishing eligibility criteria; establishing procedures by which an AMAP must administer medication; requiring nursing homes using an AMAP to establish an administrative monitoring system; permitting a registered professional nurse to withdraw authorization for an AMAP to administer medications in certain circumstances; allowing certain fees to be collected; providing limits on administration of medication by an AMAP; providing that use of an AMAP in nursing homes is permissive; and repealing a pilot program designed to monitor the practice of unlicensed personnel administering medication in a nursing home setting.

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

Eng. Com. Sub. for House Bill 4207, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4207) passed with its title.

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

Eng. House Bill 4285, Relating to the West Virginia Safe Mortgage Licensing Act.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4285) passed with its title.

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

Eng. House Bill 4332, Relating to home peritoneal renal dialysis.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4332) passed.

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

Eng. House Bill 4332—A Bill to amend and reenact §30-5-22 and §30-5-29 of the Code of West Virginia, 1931, as amended, all relating to the pharmacy practice act; allowing home peritoneal renal dialysis equipment and drugs to be distributed to patients with end state renal disease; providing for payment by Medicaid under the current benefit structure; and exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act.

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

Eng. House Bill 4385, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4385) passed with its title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4385) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4619, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4619) passed with its title.

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

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4619) takes effect July 1, 2018.

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

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

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

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

Eng. Com. Sub. for House Bill 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

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

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

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

ARTICLE 12. PROBATION AND PAROLE.

§62-12-10. Violation of probation.

(a) If at any time during the period of probation there shall be reasonable cause to believe that the probationer has violated any of the conditions of his or her probation, the probation officer may arrest him or her with or without an order or warrant, or the court which placed him or her on probation, or the judge thereof in vacation, may issue an order for his or her arrest, whereupon he or she shall be brought before the court, or the judge thereof in vacation, for a prompt and summary hearing.

(1) If the court or judge finds reasonable cause exists to believe that the probationer:

(A) Absconded supervision;

(B) Engaged in new criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(C) Violated a special condition of probation designed either to protect the public or a victim;

~~the~~ The court or judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence be executed.

(2) If the judge finds that reasonable cause exists to believe that the probationer violated any condition of supervision other than the conditions of probation set forth in §62-12-10(a)(1) of this code then, for the first violation, the judge ~~shall~~ may impose a period of confinement up to ~~sixty days or, for the second violation~~ six months. For subsequent violations, a period of confinement up to one hundred twenty days. For the third violation, the judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence

be executed, with credit for time spent in confinement under this section.

(3) In computing the period for which the offender is to be confined, the time between his or her release on probation and his or her arrest may not be taken to be any part of the term of his or her sentence.

(b) A probationer confined for a first or second violation pursuant to §66-12-10(a)(2) of this code may be confined in jail, and the costs of confining felony probationers shall be paid out of funds appropriated for the Division of Corrections. Whenever the court orders the incarceration of a probationer pursuant to the provisions of §66-12-10(a)(2) of this section, a circuit clerk shall provide a copy of the order of confinement within five days to the Commissioner of Corrections.

(c) If, despite a violation of the conditions of probation, the court or judge is of the opinion that the interests of justice do not require that the probationer serve his or her sentence or a period of confinement, the judge may, except when the violation was the commission of a felony, again release him or her on probation: *Provided*, That a judge may otherwise depart from the sentence limitations set forth in §66-12-10(a)(2) of this code upon making specific written findings of fact supporting the basis for the departure.

The bill (Eng. Com. Sub. for H. B. 2607), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2654, Expanding county commissions' ability to dispose of county or district property.

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

Eng. Com. Sub. for House Bill 2693, Relating to state ownership of wildlife.

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

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

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

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-3. State ownership of wildlife.

The ownership of and title to all ~~wild animals, wild birds, both migratory and resident, and all fish, amphibians, and all forms of aquatic life~~ wildlife in the State of West Virginia is hereby declared to be in the state, as trustee for the people. ~~No such~~ A person shall not take or hunt wildlife ~~shall be taken or hunted~~ in any manner, or at any time, unless the person ~~so~~ taking or hunting the ~~same shall consent~~ wildlife consents that the title ~~thereto shall be and remain to the wildlife is and remains~~ in the State of West Virginia for the purpose of regulating the taking, hunting, using, and disposing of the ~~same~~ wildlife. The taking or hunting of wildlife at any time or in any manner by any person ~~shall be deemed such~~ is considered consent: *Provided*, That, all fish, frogs, and other aquatic life in privately-owned ponds are, and ~~shall~~ remain, the private property of the owner or owners of ~~such~~ the privately-owned ponds, and that ~~such~~ the fish, frogs, and other aquatic life in ~~such~~ the privately-owned ponds may be caught, taken or killed by ~~such~~ the owner or owners at any time.

The bill (Eng. Com. Sub. for H. B. 2693), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2983, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

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

Eng. Com. Sub. for House Bill 3005, Relating to regulation of unmanned aircraft systems.

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

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

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

ARTICLE 14. USE OF UNMANNED AIRCRAFT SYSTEMS.

§61-14-1. Definitions.

As used in this article:

(1) “Aircraft” means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned aircraft vehicles or systems;

(2) “Unmanned aircraft system” or “system” means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(3) “Unmanned aircraft system operator” or “operator” means a person exercising control over an unmanned aircraft system during flight.

§61-14-2. Prohibited use of an unmanned aircraft system; criminal penalties.

(a) Except as authorized by the provisions of this article, a person may not operate an unmanned aircraft system:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person’s permission, in a manner that would invade the individual’s reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned aircraft system in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(c) Any person who equips an unmanned aircraft system with any deadly weapon or operates any unmanned aircraft system equipped with any deadly weapon, other than for military or law enforcement purposes in their official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(d) Any person who operates an unmanned aircraft system with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(e) A person that is authorized by the Federal Aviation Administration to operate unmanned aircraft systems for commercial purposes may operate an unmanned aircraft system in

this state for such purposes if the unmanned aircraft system is operated in a manner consistent with federal law.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 3005) was reported by the Clerk:

On page two, section two, subsection (c), by striking out the words “or law enforcement purposes in their” and inserting in lieu thereof the words “in an”.

Following discussion,

The question being on the adoption of Senator Trump’s amendment to the Judiciary committee amendment to the bill, the same was put and prevailed.

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

The bill (Eng. Com. Sub. for H. B. 3005), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4180, Relating to wildlife resources.

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

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

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

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

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

ARTICLE 4. GENERAL PROVISIONS.**§33-4-22. Guaranteed Asset Protection Waivers.**

(a) *Short title.* – This section may be cited as the “Guaranteed Asset Protection Waiver Act.”

(b) *Purpose.* – The purpose of this section is to provide a framework within which guaranteed asset protection waivers are defined and may be offered within this state.

(c) *Legislative intent.* – The Legislature finds that guaranteed asset protection waivers are not insurance and are not subject to the provisions of this chapter, except as provided in this section. It is further the intent of the Legislature that all guaranteed asset protection waivers issued prior to and after the effective date of this section may not be construed as insurance and that persons marketing, administering, selling or offering to sell guaranteed asset protection waivers not be required to comply with insurance licensing requirements.

(d) *Applicability.* – This section does not apply to:

(1) An insurance policy offered by an insurer under the insurance laws of this state; or

(2) A debt cancellation or debt suspension contract being offered in compliance with 12 C.F.R. §37.1, et seq., 12 C.F.R. §721.1, et seq., or other federal law.

(e) *Waivers not insurance; exemption from licensing requirement.* – Guaranteed asset protection waivers governed by this section are not insurance and are exempt from the insurance laws of this state. Persons marketing, administering, selling or offering to sell guaranteed asset protection waivers to borrowers that comply with this section are exempt from this state’s insurance licensing requirement with regard to the marketing, selling or offering to sell guaranteed asset protection waivers.

(f) *Definitions.* – The following terms are defined for purposes of this section. These terms are not intended to be used or required in guaranteed asset protection waivers.

(1) “Administrator” means a person, other than an insurer or creditor, who performs administrative or operational functions pursuant to guaranteed asset protection waiver programs. Administrative or operational functions may include, but are not limited to:

(A) Document development, processing, and support;

(B) Compliance Services;

(C) Waiver fee processing;

(D) Benefit determination and processing;

(E) Procurement and administration of the contractual liability or other insurance policy;

(F) Technology support; or

(G) Personnel support.

(2) “Borrower” means a debtor, retail buyer, or lessee under a finance agreement.

(3) “Contractual liability” means a contract or other agreement that obligates a third party to indemnify a creditor under (g)(4) of this section and is insurance under the insurance laws of this state.

(4) “Creditor” means:

(A) The lender in a loan or credit transaction;

(B) The lessor in a lease transaction;

(C) A retail dealer of motor vehicles licensed under §17A-6-1 *et seq.* of this code, that provides credit to buyers as part of a retail sale, provided the dealer complies with the requirements of this section;

(D) The seller in a commercial retail installment transaction; or

(E) The assignees of any of the foregoing persons to whom the credit obligation is payable.

(5) “Finance agreement” means a loan, lease or retail installment sales contract for the purchase or lease of a motor vehicle.

(6) “Free look period” means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees or costs to the borrower. This period of time may not be less than thirty days.

(7) “Guaranteed asset protection waiver” means a contractual agreement that is part of or a separate addendum to the finance agreement in which a creditor agrees, upon payment of a separate charge, to cancel or waive all or part of amounts due to it on a borrower’s finance agreement if there is a total physical damage loss or unrecovered theft of a motor vehicle. A guaranteed asset protection waiver is not insurance due to the purchase, administration or operation of the contractual liability or other insurance policy authorized under subdivision (g)(4) of this section.

(8) “Insurer” means an insurance company required to be licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(9) “Motor vehicle” means a self-propelled or towed vehicle designed for personal or commercial use, including, but not limited to, an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat or personal watercraft, and the trailer used to transport a motorcycle, boat, camper or personal watercraft.

(10) “Person” includes an individual, company, association, organization, partnership, limited liability company, business trust, corporation and every form of legal entity.

(g) Requirements for offering guaranteed asset protection waivers. –

(1) Guaranteed asset protection waivers may be offered, sold or provided to borrowers in this state in compliance with this section.

(2) Guaranteed asset protection waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(3) Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the Truth in Lending Act, 15 U.S.C. §1601, et. seq., must be separately stated and may not be considered a finance charge or interest.

(4) A retail dealer of motor vehicles shall insure its guaranteed asset protection waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor, other than a retail dealer of motor vehicles, may insure its guaranteed asset protection waiver obligations under a contractual liability policy or similar policy issued by an insurer. The insurance policy may be directly obtained by a creditor, a retail dealer of motor vehicles or may be procured by an administrator to cover a creditor's or retail dealer's obligations: *Provided*, That retail dealers of motor vehicles that are lessors of motor vehicles are not required to insure obligations related to guaranteed asset protection waivers on leased vehicles.

(5) The guaranteed asset protection waiver remains a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

(6) The extension of credit, the terms of credit or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of a guaranteed asset protection waiver.

(7) A creditor that offers a guaranteed asset protection waiver shall report the sale of and forward funds received on all guaranteed asset protection waivers to the designated party, if any, as prescribed in any applicable administrative services agreement.

contractual liability policy, other insurance policy or other specified program document.

(8) Funds received or held by a creditor or administrator and belonging to an insurer, creditor or administrator, pursuant to the terms of a written agreement must be held by the creditor or administrator in a fiduciary capacity.

(h) Contractual liability or other insurance policies. –

(1) Contractual liability or other insurance policies insuring guaranteed asset protection waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the guaranteed asset protection waivers issued by the creditor and purchased or held by the borrower.

(2) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(3) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must remain in effect unless canceled or terminated in compliance with applicable insurance laws of this state.

(4) The cancellation or termination of a contractual liability or other insurance policy may not reduce the insurer's responsibility for guaranteed asset protection waivers issued by the creditor prior to the date of cancellation or termination and for which premiums have been received by the insurer.

(i) Disclosures. –

Guaranteed asset protection waivers must disclose, as applicable, in writing and in clear, understandable language, the following:

(A) The name and address of the initial creditor and the borrower at the time of sale and the identity of any administrator if different from the creditor;

(B) The purchase price and the terms of the guaranteed asset protection waiver, including without limitation the requirements for protection, conditions or exclusions associated with the guaranteed asset protection waiver;

(C) That the borrower may cancel the guaranteed asset protection waiver within a free look period as specified in the waiver, and may receive a full refund of the purchase price, so long as no benefits have been provided under the waiver; or if benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the guaranteed asset protection waiver;

(D) That in order to obtain guaranteed asset waiver protection benefits under its terms and conditions, the borrower must provide notice of the total physical loss or unrecovered theft of the motor vehicle to the creditor or its designated administrator and the manner in which such notice must be provided;

(E) Whether the guaranteed asset protection waiver may be canceled after the free look period and the conditions under which it may be canceled or terminated, including the procedures for requesting any refund due;

(F) That in order to receive any refund due if a borrower cancels the guaranteed asset protection waiver agreement or early termination of the finance agreement after the free look period of the guaranteed asset protection waiver, the borrower, in accordance with terms of the waiver, shall provide a written request to cancel to the creditor, administrator or other party as specified in the guaranteed asset protection waiver. If a borrower is canceling the guaranteed asset protection waiver due to early termination of the finance agreement, the borrower shall provide a written request to the creditor, administrator or other party within ninety days of the occurrence of the event terminating the finance agreement;

(G) The methodology for calculating any refund of the unearned purchase price of the guaranteed asset protection waiver due if there is cancellation of the guaranteed asset protection waiver or early termination of the finance agreement; and

(H) That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease, may be conditioned upon the purchase of the guaranteed asset protection waiver.

(j) Cancellation. –

(1) Guaranteed asset protection waiver agreements may be cancellable or non-cancellable after the free look period. Guaranteed asset protection waivers must provide that if a borrower cancels a guaranteed asset protection waiver within the free look period, so long as no benefits have been provided, the borrower is entitled to a full refund of the purchase price. If benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the guaranteed asset protection waiver;

(2) If the borrower cancels the guaranteed asset protection waiver or terminates the finance agreement early but after the agreement has been in effect beyond the free look period, the borrower may receive a refund of any unearned portion of the purchase price of the guaranteed asset protection waiver unless the guaranteed asset protection waiver provides otherwise. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, shall provide a written request to the creditor, administrator or other party. If the borrower is canceling the guaranteed asset protection waiver due to the early termination of the finance agreement, the borrower shall provide a written request within ninety days of the event terminating the finance agreement;

(3) If the cancellation of a guaranteed asset protection waiver occurs as a result of a default under the finance agreement, or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any

refund due may be paid directly to the creditor or administrator and applied as set forth in subdivision (4) of this subsection (i), below:

(4) A cancellation or termination refund under subdivision (1), (2) or (3) of this subsection (i) may be applied by the creditor as a reduction of the amount owed under the finance agreement, unless the borrower can show that the finance agreement has been paid in full.

(k) Commercial transaction exempted. – Subsections (g), (h) and (i) of this section do not apply to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.

The bill (Eng. Com. Sub. for H. B. 4186), as amended, was then ordered to third reading.

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

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

Eng. Com. Sub. for House Bill 4230, Relating to credit for reinsurance.

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

Eng. Com. Sub. for House Bill 4236, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

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

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

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

On motion of Senator Ojeda, the following amendments to the bill were reported by the Clerk and considered simultaneously:

On page six, section two, line one, before the word “If” by inserting “(a)”;

And,

On page six, section two, after line four, by inserting a new subsection, designated subsection (b), to read as follows:

(b) In order to promote the highest and best use of real property in this state, there is hereby assessed a “highest and best use fee” on the lawful use or development of oil or natural gas and its constituents in an amount equal to two and one-half percent of the gross value of the natural gas or oil produced, as shown by the gross proceeds derived from the sale thereof by the producer. This highest and best use fee is in addition to all taxes imposed by law and the two and one-half percent of the gross value of the natural gas or oil produced is calculated in the same manner as the privilege tax contained in §11-13A-3a of this code. The highest and best use fee shall be deposited into the Public Employees Insurance Agency Financial Stability Fund to stabilize and preserve the future solvency of PEIA, and such amount may not be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

Following extended discussion,

The question being on the adoption of Senator Ojeda’s amendments to the bill, the same was put and did not prevail.

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4268) were next reported by the Clerk and considered simultaneously:

On page eleven, section four, after line sixty-three, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Where a nonconsenting cotenant elects or is deemed to have elected to receive a production royalty or participate in the

production, under subsection (b) of this section, and all portions of the leased premises covered by the oil and gas lease, on a surface acreage basis, included in a producing unit created either voluntarily under the terms of the lease or by government authority, but which are not producing or upon which drilling operations have not commenced, shall be released.;

And,

By relettering the remaining subsections.

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

On motion of Senator Romano, at 2:26 p.m., the Senate recessed for five minutes.

The Senate reconvened at 2:34 p.m. today and resumed consideration of

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

The question being on the adoption of Senator Romano's amendments to the bill.

At the request of Senator Romano, and by unanimous consent, Senator Romano's amendments to the bill were withdrawn.

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4268) were next reported by the Clerk and considered simultaneously:

On page eleven, section four, after line fifty-five, by inserting a new subsection, designated subsection (f), to read as follows:

(f) Where a nonconsenting cotenant elects or is deemed to have elected to receive a production royalty or participate in the production, under subsection (b) of this section, and all portions of the leased premises covered by the oil and gas lease, on a surface acreage basis, included in a producing unit created either voluntarily under the terms of the lease or by government authority,

but which are not producing during the primary term of the lease or upon which drilling operations have not commenced during the primary term of the lease, shall be released.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Romano's amendments to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Gaunch, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Sypolt, Unger, and Woelfel—14.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Takubo, Trump, Weld, and Carmichael (Mr. President)—18.

Absent: Arvon and Mann—2.

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

On motion of Senator Romano, the following amendments to the bill (Eng. Com. Sub. for H. B. 4268) were next reported by the Clerk and considered simultaneously:

On page nine, section four, line nine, after the word "subsection" by striking out "(d)" and inserting in lieu thereof "(e)";

On page nine, section four, line eleven, after the word "subsection" by striking out "(d)" and inserting in lieu thereof "(e)";

On page ten, section four, after line thirty-five, by inserting a new subsection, designated subsection (d), to read as follows:

(d) Any nonconsenting cotenant with five percent of the total gross mineral interest or more may demand that the question of whether the selection pursuant to subsection (b) of this section provides just and reasonable compensation, be ascertained by a jury, in which case a jury of twelve citizens shall be selected and impaneled for the purpose, as juries are selected in civil actions. The matter may be filed within thirty days of the latest day the selection pursuant to subsection (b) of this section is made or is deemed to have been made. The cause shall be tried as other causes in the circuit court, except that any member of the oil and gas conservation commission may not be examined as a witness. In the event a demand is made by a party in interest, and the judge deems it reasonably necessary to fairly resolve the matter, the jury shall be taken to view the property, and in such case, the judge presiding at the trial shall go with the jury and shall control the proceedings. All parties have a right to appeal from the jury's decision to the Supreme Court of Appeals of West Virginia.;

And,

By relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Romano's amendments to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Prezioso, Romano, Stollings, Unger, and Woelfel—10.

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

Absent: Arvon and Mann—2.

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

The bill (Eng. Com. Sub. for H. B. 4268) was then ordered to third reading.

Eng. Com. Sub. for House Bill 4289, Relating to disability pensions of municipal employees.

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

Eng. Com. Sub. for House Bill 4343, Relating to the delivery of financial statements to bank shareholders.

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

Eng. Com. Sub. for House Bill 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

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

Eng. House Bill 4402, Relating to the prevention of sexual abuse of children.

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

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

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

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-41. Education and Prevention of the Sexual Abuse of Children.

(a) Education of children in grades K-12—Beginning July 1, 2019, children in grades K-12 shall receive body age-appropriate safety information at least once per academic school year, with a preference for four times per academic year. To facilitate this process and develop resources, the state board shall propose a legislative rule for promulgation, in accordance with §29A-3b-1 et seq. of this code, by December 31, 2018. The rule shall provide for at least the following:

(1) Developmentally appropriate education and resources;

(2) Social media usage and content;

(3) Implementation of best practices;

(4) Differing county and school sizes, demographics, etc. relating to implementation strategies;

(5) Strategies for dealing with disclosures after student education;

(6) Rules informed by family voice;

(7) Offender dynamics;

(8) Child-on-child scenarios;

(9) Rules on development of supplementary materials, including posting of the child abuse hotline, to embed into the school climate;

(10) Protocols for local crisis response in conjunction with §18-9F-9 of this code.

(b) Training of public school employees. The state board shall propose by December 31, 2018 a legislative rule for promulgation in accordance with §29A-3b-1 et seq. of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of standards for training requirements of all public school employees focused on developing skills, knowledge, and capabilities related to preventing child sexual abuse and

recognizing and responding to suspected abuse and neglect. The rule shall provide for at least the following:

(1) This required training shall include comprehensive instruction and information to better equip schools and their employees, including how to:

(A) Recognize sexually offending behaviors in adults, questionable behaviors such as boundary violations, and signs in adults that might indicate they pose a sexual risk to children;

(B) Recognize, appropriately respond to, and prevent sexually inappropriate, coercive, or abusive behaviors among children and youth served by schools;

(C) Recognize behaviors and verbal cues that might indicate a child or youth has been a victim of abuse or neglect;

(D) Support the healthy development of children and youth and the building of protective factors to mitigate against their sexual victimization by adults or peers;

(E) Recognize and appropriately respond to student infatuations and flirtations with adults in schools;

(F) Recognize appropriate and inappropriate social media usage by adults and children;

(G) Provide consistent and standard protocols for responding to disclosures of sexual abuse or reports of boundary-violating behaviors by adults or children in a supportive and appropriate manner which meet mandated reporting requirements;

(H) Provide adequate understanding of the age-appropriate, comprehensive, evidence-informed child sexual abuse prevention education which will be offered to their students; and

(I) Reflect the research on Adverse Childhood Experiences (ACEs) and trauma-informed care.

(2) The rule shall contain provisions to ensure public school employees complete the required training every two years.

(A) The required training shall be at least a cumulative four hours (half day) of instruction on the elements identified in this section.

(B) A skills renewal is required every two years thereafter.

(C) The mode of delivery for the trainings may include in-person or e-learning instruction and may include a series of trainings or modules.

(D) The state board shall provide certificates of satisfactory completion for the employee and the employer documenting the employee completed the required training.

The bill (Eng. H. B. 4402), as amended, was then ordered to third reading.

Eng. House Bill 4410, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

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

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

On page two, section one thousand one hundred seven, line thirty-two, after the word “purchasing” by striking out the comma and the words “West Virginia Department of Administration” and inserting in lieu thereof the words “of the Purchasing Division within the Department of Administration”.

The bill (Eng. H. B. 4410), as amended, was then ordered to third reading.

Eng. House Bill 4422, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

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

Eng. House Bill 4433, Declaring certain claims against an agency of the state to be moral obligations of the state.

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

Eng. House Bill 4436, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

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

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

On page one, section two, line one, by striking out the word “No” and inserting in lieu thereof the word “A”;

On page one, section two, line one, after the word “may” by inserting the word “not”;

On page two, section two, line twenty-four, by striking out the word “No” and inserting in lieu thereof the word “A”;

On page two, section two, line twenty-four, after the word “may” by inserting the word “not”;

On page two, section two, line twenty-seven, by striking out the word “No” and inserting in lieu thereof the word “A”;

On page two, section two, line twenty-seven, after the word “may” by inserting the word “not”;

And,

On page two, section two, line thirty, after the word “requirements” by inserting the word “of”.

The bill (Eng. H. B. 4436), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4444, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

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

Eng. Com. Sub. for House Bill 4473, Relating to use of state funds for advertising to promote a public official or government office.

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

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

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

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

ARTICLE 2B. LIMITATIONS ON A PUBLIC OFFICIAL FROM USING HIS OR HER NAME OR LIKENESS.

§6B-2B-1. Definitions.

As used in this article:

(a) “Advertising” means publishing, distributing, disseminating, communicating, or displaying information to the ~~general~~ public through audio, visual, or other media tools with the purpose of promoting the public official or a political party. ~~It includes~~ “Advertising” may include, but is not limited to, billboard, radio, television, mail, electronic mail, publications, banners, table skirts, magazines, social media, websites, and other forms of publication, dissemination, display, or communication.

(b) “Agent” means any volunteer or employee, contractual or permanent, serving at the discretion of a public official or public employee.

(c) “Educational materials” means publications, guides, calendars, handouts, pamphlets, reports, or booklets intended to provide information about the public official or governmental office. It includes information or details about the office, services the office provides to the public, updates on laws and services, and other informational items that are intended to educate the public.

(d) “Instructional material” means written instructions explaining or detailing steps for completion of a governmental agency document or form.

(e) “Likeness” means a photograph, drawing, or other depiction of an individual.

(f) “Mass media communication” means communication through audio, visual, or other media tools, including U.S. mail, electronic mail, and social media, intended for general dissemination to the public. Examples include mass mailing by U.S. mail, list-serve emails and streaming clips on websites. It does not include: (i) Regular responses to constituent requests or questions during the normal course of business; or (ii) communications that are authorized or required by law to be publicly disseminated, such as legal notices.

(g) “Press release” means a written, audio, or video communication issued by an official or agency to the public or to members and organizations of the news media to report specific but brief information about an event, circumstance, or other happening.

~~(g)~~ (h) “Public employee” means any full-time or part-time employee of any state, or political subdivision of the state, and their respective boards, agencies, departments, and commissions, or in any other regional or local governmental agency.

~~(h)~~ (i) “Public official” means any person who is elected or appointed to any state, county, or municipal office or position, including boards, agencies, departments, and commissions, or in any other regional or local governmental agency.

~~(i)~~ (j) “Public payroll” means payment of public moneys as a wage or salary from the state, or political subdivision of the state,

or any other regional or local governmental agency, whether accepted or not.

(j) (k) “Social media” means forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content. It includes web and mobile-based technologies which are used to turn communication to interactive dialogue among organizations, communities, and individuals. Examples include, but are not limited to, Facebook, Myspace, Twitter, and YouTube.

(k) (l) “Trinkets” means items of tangible personal property that are not vital or necessary to the duties of the public official’s or public employee’s office, including, but not limited to, the following: magnets, mugs, cups, key chains, pill holders, band-aid dispensers, fans, nail files, matches, and bags.

§6B-2B-2. Limitations on a public official from using his or her name or likeness.

(a) *Trinkets.* – Public officials, their agents, or anyone on public payroll may not place the public official’s name or likeness on trinkets paid for with public funds: *Provided*, That when appropriate and reasonable, public officials may expend a minimal amount of public funds for the purchase of pens, pencils, or other markers to be used during ceremonial signings.

(b) *Advertising.* – (1) Public officials, their agents, or anyone on public payroll may not use public funds, including funds of the office held by the public official, public employees, or public resources to distribute, disseminate, publish, or display the public official’s name or likeness for the purpose of advertising to the ~~general~~ public.

(2) Notwithstanding the prohibitions in subdivision (1) of this subsection, the following conduct is not prohibited:

(A) A public official’s name and likeness may be used in a public announcement or mass media communication when necessary, reasonable, and appropriate to relay specific public safety, health, or emergency information.

(B) A public official's name and likeness may appear on an agency's social media and website ~~provided~~ if it complies with §6B-2B-3 of this code.

~~(C) Dissemination of office press releases or agency information via email, social media or other public media tools for official purposes is not considered advertising or prohibited under this subsection, if it: (i) Is intended for a legitimate news or informational purpose; (ii) is not intended as a means of promotion of the public official; and (iii) is not being used as educational material.~~

(3) Banners and table skirts are considered advertising and may not include the public official's name or likeness.

(4) Nothing in this article shall be interpreted as prohibiting public officials from using public funds to communicate with constituents in the normal course of their duties as public officials if the communications do not include any reference to voting in favor of the public official in an election.

(c) *Vehicles.* – Public officials, their agents, or any person on public payroll may not use or place the public official's name or likeness on any publicly owned vehicles.

(d) *Educational Materials.* –

A public official's name or likeness may ~~not~~ be placed on any educational material, that is paid for with public funds, so long as the primary purpose of the material is to provide information about the processes, operations, structure, functions, or history of an agency, agencies, or branch of government, or to provide lists of contact information or other identifying information about a public official. ~~Provided, That this prohibition does not apply to the submission of a report required to be issued by law.~~ Educational materials in which the name and likeness of an official may appear include, but are not limited to: directories; reports; reference books; and legislative publications, such as the West Virginia Blue Book and the Legislative Manual.

(e) Press releases. – Notwithstanding any other provision of law, the name and likeness of a public official may be included in a press release, produced with public funds and which is disseminated by any means, if that press release is intended for a legitimate news or informational purpose and, considered as a whole, does not feature or present the public official in a form, manner, or context which is intended to promote the official. A press release produced with public funds may not request, solicit, or promote voting for any official or political party.

§6B-2B-3. Limitations on promotion through Use of public official's name or likeness on agency website or social media.

(a) A public official's name and likeness may appear on a public agency's website and on the agency's social media accounts or pages subject to the following restrictions in any of the following circumstances:

~~(1) The public official's name may appear throughout the website if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

~~(2) (1) The public official's name and likeness may only appear appears on the agency's website home page and on any pages or sections devoted to or social media accounts or pages for the purpose of providing biographical information regarding the public official;~~

~~(2) The public official's name and likeness appears in educational materials posted or otherwise shared on the agency's website or social media accounts or pages, so long as the educational materials comply with the requirements of §6B-2B-2(d) of this code;~~

~~(3) The public official's name and likeness may appear on the agency's social media if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

(3) The public official's name and likeness appears in a press release posted or otherwise shared on the agency's website or social media accounts or pages, so long as the press release complies with the requirements of §6B-2B-2(e) of this code; or

(4) The public official's name and likeness appears on the agency's website or social media accounts or pages for any other purpose that is reasonable, incidental, appropriate, and has a primary purpose to promote the agency's mission and services rather than to promote the public official.

~~(b) This section does not apply to~~ The requirements of this section do not apply to a public official's personal or non-public agency social media accounts.

(c) A public agency's website or social media may not provide links or reference to a public official's or public employee's personal or campaign social media or website.

§6B-2B-4. Exceptions to use of name or likeness.

(a) A public official may use his or her name or likeness on any official record or report, letterhead, document, or certificate or instructional material issued in the course of his or her duties as a public official: *Provided*, That other official documents used in the normal course of the agency, including, but not limited to, facsimile cover sheets, press release headers, office signage, and envelopes may include the public official's name: *Provided, however, if the* That when official documents are reproduced for distribution or dissemination to the public as educational material, the items are subject to the prohibitions in §6B-2B-2(d) of this code.

(b) When appropriate and reasonable, the West Virginia Division of Tourism may use a public official's name and likeness on material used for tourism promotion.

(c) The prohibitions contained in this article do not apply to any person who is employed as a member of the faculty, staff, administration, or president of a public institution of higher education and who is engaged in teaching, research, consulting,

coaching, recruiting, or publication activities: *Provided*, That the activity is approved as a part of an employment contract with the governing board of the institution of higher education or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(d) The prohibitions contained in §6B-2B-2 of this code do not apply to ~~a public official's campaign-related expenditures or materials~~ items paid for from the public official's campaign funds.

(e) The prohibitions contained in §6B-2B-2 of this code do not apply to items paid for with the public official's personal money.

(f) The prohibitions contained in §6B-2B-2 of this code do not apply to items or materials required by law to contain the public official's name or likeness.

The bill (Eng. Com. Sub. for H. B. 4473), as amended, was then ordered to third reading.

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

On second 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.

Eng. House Bill 4621, Relating to removing reference to certain entities with respect to work.

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

Eng. House Bill 4624, Relating to West Virginia coordinate systems.

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

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

On page one, section five, line three, by striking out the word “successor” and inserting in lieu thereof the word “successors”;

On page seven, section five, line one hundred sixty-eight, by striking out the word “data” and inserting in lieu thereof the word “datums”;

And,

On page seven, section five, line one hundred seventy-six, by striking out the word “data” and inserting in lieu thereof the word “datums”.

The bill (Eng. H. B. 4624), as amended, was then ordered to 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:

Eng. Com. Sub. for House Bill 2889, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

And,

Eng. Com. Sub. for House Bill 4238, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Unger, Blair, and Prezioso.

At the request of Senator Boley, and by unanimous consent, the Senate returned to the eleventh order of business and the introduction of guests.

Pending announcement of meetings of standing committees of the Senate,

Senator Ferns then moved that the Senate adjourn until tomorrow, Saturday, March 3, 2018, at 9:30 a.m.

The question being on the adoption of Senator Ferns' aforesated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Swope, Sypolt, Takubo, Trump, and Carmichael (Mr. President)—19.

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

Absent: Mann, Ojeda, Smith, and Weld—4.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' motion had prevailed.

In accordance with the foregoing motion, at 3:25 p.m., the Senate adjourned until tomorrow, Saturday, March 3, 2018, at 9:30 a.m.

SATURDAY, MARCH 3, 2018

The Senate met at 9:50 a.m.

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

Prayer was offered by the Honorable Stephen Baldwin, a senator from the tenth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Donna J. Boley, a senator from the third district.

Pending the reading of the Journal of Friday, March 2, 2018,

At the request of Senator Palumbo, 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 concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 37, Equalizing penalty for entering without breaking regardless of time of day.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 134, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section three, lines twenty-three and twenty-four, by striking out “§15-5-3(g)” and inserting in lieu thereof “§15-5-3(c)”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 134, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 134) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 134) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 146, Correcting technical error within Solid Waste Management Act.

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

Eng. Senate Bill 338, Changing date for employers to file annual reconciliation and withholding statements.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

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

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-74. Filing of employer's withholding return and payment of withheld taxes; annual reconciliation; e-filing required for certain tax preparers and employer.

(a) *General.* — Every employer required to deduct and withhold tax under this article shall ~~for each calendar quarter, on or before the last day of the month following the close of the calendar quarter, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld. Where the average quarterly amount deducted and withheld by any employer is less than \$150 and the aggregate for the calendar year can reasonably be expected to be less than \$600, the Tax Commissioner may by rule permit an employer to file an annual return and pay over to the Tax~~

~~Commissioner the taxes deducted and withheld on or before the last day of the month following the close of the calendar year. The Tax Commissioner may, by nonemergency legislative rules promulgated pursuant to article three, chapter twenty nine a of this code, change the minimum amounts established by this subsection. The Tax Commissioner may, if he or she determines necessary for the protection of the revenues, require any employer to make the return and pay to him or her the tax deducted and withheld at any time or from time to time. Notwithstanding the provisions of this subsection, after December 31, 2008, every employer required to deduct and withhold tax under this article shall file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld, in accordance with the procedures established by the Internal Revenue Service pursuant to Section 3402 of the Internal Revenue Code.~~

~~(b) *Monthly returns and payments of withheld tax after December 31, 2000.*~~—

~~Notwithstanding the provisions of subsection (a) of this section, after December 31, 2000, every employer required to deduct and withhold tax under this article shall, for each of the first eleven months of the calendar year, by the twentieth day of the succeeding month, and for the last calendar month of the year, by the last day of the succeeding month, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld, if the withheld taxes aggregate \$ 250 or more for the month, except any employer with respect to whom the Tax Commissioner may have by rule provided otherwise in accordance with the provisions of subsection (a) of this section. Notwithstanding the provisions of this subsection, after December 31, 2008, every employer required to deduct and withhold tax under this article shall file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld. The due dates for returns and payments shall be established by the Tax Commissioner to match as closely as practicable the due dates in effect for federal income tax purposes, in accordance with the~~

procedures established by the Internal Revenue Service pursuant to Section 3402 of the Internal Revenue Code except as otherwise provided in this section: *Provided*, That not later than January 31, 2019, and January 31 of each year thereafter, employers and payers shall submit to the Tax Commissioner the annual reconciliation of West Virginia income tax withheld, together with state copies of all withholding tax statements reflecting West Virginia tax withholding, including, but not limited to, forms W-2, W-2G, and 1099, furnished to each employee or payee for the preceding calendar year, notwithstanding the fact that the employer or payer may have a calendar tax year ending on December 31 or a fiscal tax year ending on a date other than December 31. Notwithstanding the provisions of this section, where the average quarterly amount deducted and withheld by any employer is less than \$150 and the aggregate for the calendar year can reasonably be expected to be less than \$600, the Tax Commissioner may by rule permit an employer to file an annual return and pay over to the Tax Commissioner the taxes deducted and withheld on or before the last day of the month following the close of the calendar year.

(e) (b) *Annual returns and payments of withheld tax of certain domestic and household employees.* — Employers of domestic and household employees whose withholdings of federal income tax are annually paid and reported by the employer pursuant to the filing of Schedule H of federal form 1040, 1040A, 1040NR, 1040NR-EZ, 1040SS, or 1041 ~~may~~ shall, on or before January 31 next succeeding the end of the calendar year for which withholdings are deducted and withheld, file an annual withholding return with the Tax Commissioner, and annually remit to the Tax Commissioner, West Virginia personal income taxes deducted and withheld for the employees together with state copies of all withholding tax statements reflecting West Virginia tax withholding, including, but not limited to, forms W-2, W-2G, and 1099, furnished to each employee or payee for the preceding calendar year, notwithstanding the fact that the employer or payer may have a calendar tax year ending on December 31 or a fiscal tax year ending on a date other than December 31. The Tax Commissioner may promulgate legislative or other rules pursuant to §29A-3-1 et seq. of this code for implementation of this

~~subsection. Notwithstanding the provisions of this subsection, after December 31, 2008, every employer required to deduct and withhold tax under this article shall file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld. The due dates for annual returns and payments shall be established by the Tax Commissioner to match as closely as practicable the due dates in effect for federal income tax purposes, in accordance with the procedures established by the Internal Revenue Service pursuant to Section 3402 of the Internal Revenue Code~~

~~(d)~~ (c) *Deposit in trust for Tax Commissioner.* — Whenever any employer fails to collect, truthfully account for, or pay over the tax, or to make returns of the tax as required in this section, the Tax Commissioner may serve a notice requiring the employer to collect the taxes which become collectible after service of the notice, to deposit the taxes in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner and to keep the amount of the tax in the separate account until payment over to the Tax Commissioner. The notice remains in effect until a notice of cancellation is served by the Tax Commissioner.

~~(e)~~ (d) *Accelerated payment.* —

(1) ~~Notwithstanding the provisions of subsections (a) and (b) of this section, after June 30, 2014, every~~ Every employer required to deduct and withhold tax whose average payment per calendar month for the preceding calendar year under subsection ~~(b)~~ (a) of this section exceeded \$100,000 shall remit the tax attributable to the first 15 days of June each year by June 23.

(2) For purposes of complying with subdivision (1) of this subsection, the employer shall remit an amount equal to the withholding tax due under this article on employee compensation subject to withholding tax payable or paid to employees for the first ~~fifteen~~ 15 days of June or, at the employer's election, the employer may remit an amount equal to ~~fifty~~ 50 percent of the employer's liability for withholding tax under this article on compensation payable or paid to employees for the preceding month of May.

(3) For an employer which has not been in business for a full calendar year, the total amount the employer was required to deduct and withhold under subsection ~~(b)~~ (a) of this section for the prior calendar year shall be divided by the number of months, including fractions of a month, that it was in business during the prior calendar year and if that amount exceeds \$100,000, the employer shall remit the tax attributable to the first ~~fifteen~~ 15 days of June each year by June 23, as provided in subdivision (2) of this subsection.

(4) When an employer required to make an advanced payment of withholding tax under subdivision (1) of this subsection makes out its return for the month of June, which is due by July 20, that employer may claim as a credit against its liability under this article for tax on employee compensation paid or payable for employee services rendered during the month of June the amount of the advanced payment of tax made under subdivision (1) of this subsection.

~~(f) The amendments to this section enacted in the year 2006 are effective for tax years beginning after December 31, 2005.~~

~~(g)~~ (e) An annual reconciliation of West Virginia personal income tax withheld shall be submitted by the employer by ~~February 28~~ January 31, following the close of the calendar year, together with Tax Division copies of all withholding tax statements for that preceding calendar year. The reconciliation shall be accompanied by a list of the amounts of income withheld for each employee in such form as the Tax Commissioner prescribes and shall be filed separately from the employer's monthly or quarterly return.

~~(h)~~ (f) Any employer required to file a withholding return for ~~two hundred fifty or more employees shall file its return using electronic filing as defined in section fifty four of this article: Provided, That for any tax period beginning after December 31, 2010, any employer with 50 or more employees shall file its return using electronic filing as defined in section fifty four~~ §11-21-54 of this article code: *Provided, That for any tax period beginning after December 31, 2017, any employer that uses a payroll service or is*

required to file a withholding return for 25 or more employees shall file its return using electronic filing as defined in §11-21-54 of this code. An employer that is required to file electronically but does not do so is subject to a penalty in the amount of \$25 per employee for whom the return was not filed electronically, unless the employer shows that the failure is due to a technical inability to comply.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 338, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 338) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 360, Clarifying oil and gas permits not be on flat well royalty leases.

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

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

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

Eng. Com. Sub. for Senate Bill 415, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery sports wagering activities.

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

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

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

ARTICLE 22D. WEST VIRGINIA LOTTERY SPORTS WAGERING ACT.

§29-22D-1. Short title.

This article shall be known and may be cited as the West Virginia Lottery Sports Wagering Act.

§29-22D-2. State authorization of sports wagering at licensed racetrack facilities and historic resort hotel; legislative findings and declarations.

(a) Operation of West Virginia lottery sports wagering. — Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are only lawful when conducted in accordance with the provisions of this article and rules of the commission.

(b) Legislative findings. —

(1) The Legislature finds that the operation of the four racetracks and the historic resort hotel in this state play a critical role in the economy of this state, and such constitutional lotteries are rightfully authorized as state enterprises consistent with the rights and powers granted to the states under the Tenth Amendment of the United States Constitution. The federal government is a government of limited and enumerated powers, and powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved for the states and its respective citizens.

(2) The Legislature finds that section 36, article VI of the Constitution of the State of West Virginia grants the state the exclusive right to lawfully own and operate a lottery in this state. Authorization of wagering on any constitutional lottery within West Virginia is within the state's sovereign rights as a state to act in the best interest of its citizens.

(3) The Legislature finds that it is in the best interests of the State of West Virginia for the state to operate a lottery in the form of sports wagering and that it is the intent of the Legislature to authorize sports wagering when federal law is enacted or repealed, or a federal court decision is issued that permits a state to regulate sports wagering, as such power is reserved to the states.

(4) The Legislature finds that illegal sports wagering channels operating throughout the United States pose a critical threat to the safety and welfare of the citizens of West Virginia and that creating civil and criminal penalties to prosecute illegal operators, while transferring this black market demand into a secure and highly regulated environment, will protect the public and positively benefit state revenues and the state's economy.

(5) The Legislature finds that in order to protect residents of this state who wager on sports or other events and to capture revenues and create jobs generated from sports wagering, it is in the best interests of this state and its citizens to regulate this activity by authorizing and establishing a secure, responsible, fair, and legal system of sports wagering immediately, when the federal ban on sports wagering is lifted.

(6) The Legislature finds that the most effective and efficient manner in which the state can operate and regulate the forms of lottery authorized by the provisions of this article is to limit the number of authorized operators to those who are licensed, pursuant to the provisions of §29-22A-1 *et seq.* of this code, and to facilities licensed to operate video lottery terminals, pursuant to the provisions of §29-25-1 *et seq.* of this code.

(7) The Legislature finds that the granting of licenses pursuant to the provisions of this article, while maintaining all ownership rights and exercising control through strict regulation of all West Virginia Lottery sports wagering authorized by the provisions of this article, constitutes an appropriate exercise by the Legislature of the power granted it by the provisions of section 36, article VI of the Constitution of the State of West Virginia.

(8) The Legislature finds that the operation of West Virginia Lottery sports wagering at racetracks, licensed pursuant to the provisions of §29-22A-1 *et seq.* of this code, and at a historic resort hotel, licensed pursuant the provisions of §29-25-1 *et seq.* of this code, serves to protect, preserve, promote, and enhance the tourism industry of the state as well as the general fiscal well-being of the state and its subdivisions.

§29-22D-3. Definitions.

For the purposes of this article, the following terms have the meanings ascribed to them in this section:

(1) “Adjusted gross sports wagering receipts” means an operator’s gross sports wagering receipts from West Virginia Lottery sports wagering, less winnings paid to wagerers in such games.

(2) “Collegiate sport or athletic event” means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.

(3) “Commission” or “State Lottery Commission” means the West Virginia Lottery Commission, created by §29-22-1 et seq. of this code.

(4) “Director” means the director of the West Virginia State Lottery Commission, appointed pursuant to §29-22-6 of this code.

(5) “Gaming equipment” or “sports wagering equipment” means any mechanical, electronic or other device, mechanism, or equipment, and related supplies used or consumed in the operation of West Virginia Lottery sports wagering at a licensed gaming facility including, but not limited to, a kiosk installed to accept sports wagers.

(6) “Gaming facility” means a designated area on the premises of an existing historic resort hotel, licensed under §29-25-1 et seq. of this code, to operate video lottery and table games or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 et seq. of this code.

(7) “Government” means any governmental unit of a national, state, or local body exercising governmental functions, other than the United States Government.

(8) “Gross sports wagering receipts” means the total gross receipts received by a licensed gaming facility from sports wagering.

(9) “License” means any license, applied for or issued by the commission under this article, including, but not limited to:

(A) A license to act as agent of the commission in operating West Virginia Lottery sports wagering at a licensed gaming facility (“Operator License” or “West Virginia Lottery sports wagering license”);

(B) A license to supply a gaming facility, licensed under this article, to operate sports wagering with sports wagering equipment or services necessary for the operation of sports wagering (“Supplier License”);

(C) A license to be employed at a racetrack or gaming facility, licensed under this article, to operate West Virginia Lottery sports wagering when the employee works in a designated gaming area that has sports wagering or performs duties in furtherance of or associated with the operation of sports wagering at the licensed gaming facility (“Occupational License”); or

(D) A license to provide management services under a contract to a gaming facility, licensed under this article, to operate sports wagering (“Management Services Provider License”).

(10) “Licensed gaming facility” means a designated area on the premises of an existing historic resort hotel, pursuant to §29-25-1 et seq. of this code, or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 et seq. of this code, licensed under this article to conduct West Virginia Lottery sports wagering.

(11) “Lottery” means the public gaming systems or games regulated, controlled, owned, and operated by the State Lottery Commission in the manner provided by general law, as provided in this article, §29-22-1 et seq., §29-22A-1 et seq., §29-22B-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code.

(12) “National criminal history background check system” means the criminal history record system maintained by the Federal Bureau of Investigation, based on fingerprint identification or any other method of positive identification.

(13) “Operator” means a licensed gaming facility which has elected to operate a sports pool and other authorized West Virginia Lottery sports wagering activities;

(14) “Professional sport or athletic event” means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event;

(15) “Sports event” or “sporting event” means any professional sport or athletic event, any collegiate sport or

athletic event, motor race event, or any other special event authorized by the commission under this article;

(16) “Sports pool” means the business of accepting wagers on any sports event by any system or method of wagering;

(17) “Sports wagering account” means a financial record established by a licensed gaming facility for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed gaming facility may credit winnings or other amounts due to that patron or authorized by that patron.

(18) “Sports Wagering Agreement” means a written agreement between the commission and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments.

(19) “Sports Wagering Fund” means the special fund in the State Treasury, created in §29-22D-17 of this code.

(20) “Supplier” means a person that requires a supplier license to provide a sports wagering licensee with goods or services to be used in connection with operation of West Virginia Lottery sports wagering.

(21) “Wager” means a sum of money or thing of value risked on an uncertain occurrence.

(22) “West Virginia Lottery sports wagering” or “sports wagering” means the business of accepting wagers on sporting events and other events, the individual performance statistics of athletes in a sporting event or other events, or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms that utilize communications technology to accept wagers originating within this state. The term includes, but is not limited to, exchange wagering, parlays, over-under, moneyline, pools, and straight bets. The term does not include:

(A) Pari-mutuel betting on the outcome of horse or dog races, authorized by §19-23-12a and §19-23-12d of this code;

(B) Lottery games of the West Virginia state lottery, authorized by §29-22-1 et seq. of this code;

(C) Racetrack video lottery, authorized by §29-22A-1 et seq. of this code;

(D) Limited video lottery, authorized by §29-22B-1 et seq. of this code;

(E) Racetrack table games, authorized by §29-22C-1 et seq. of this code;

(F) Video lottery and table games, authorized by §29-25-1 et seq. of this code; and

(G) Daily Fantasy Sports (DFS).

(23) “West Virginia Lottery sports wagering license” means authorization granted under this article by the commission to a gaming facility that is already licensed under §29-22A-1 et seq. or §29-25-1 et seq. of this code, which permits the gaming facility as an agent of the commission to operate West Virginia Lottery sports wagering in one or more designated areas or in one or more buildings owned by the licensed gaming facility on the grounds where video lottery is conducted by the licensee or through any other authorized platform developed by the gaming facility. This term is synonymous with “operator’s license.”

§29-22D-4. Commission duties and powers.

(a) In addition to the duties set forth elsewhere in this article, §29-22-1 et seq., §29-22A-1 et seq., §29-22B-1 et seq., §29-22C-1 et seq. and §29-25-1 et seq. of this code, the commission shall have the authority to regulate sports pools and the conduct of sports wagering under this article.

(b) The commission shall examine the regulations implemented in other states where sports wagering is conducted

and shall, as far as practicable, adopt a similar regulatory framework through promulgation of rules and regulations.

(c) The commission has the authority, pursuant to §29A-1-1, et seq. and §29A-3-1, et seq. of this code, to promulgate or otherwise enact any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article. Rules proposed by the commission before December 1, 2018, may be promulgated as emergency rules pursuant to §29A-3-15 of this code.

(1) Regulations promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on a sports event or a series of sports events; maximum wagers which may be accepted by an operator from any one patron on any one sports event; type of wagering tickets which may be used; method of issuing tickets; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER," in every designated area approved for sports wagering and on any mobile application or other digital platform used to place wagers.

(2) The commission shall establish minimum internal control standards (MICS) and approve minimum internal control standards proposed by licensed operators for administration of sports wagering operations, wagering equipment and systems, or other items used to conduct sports wagering, as well as maintenance of financial records and other required records.

(d) The commission shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses, and shall maintain a record of all licenses issued under this article. The commission may accept applications, evaluate qualifications of applicants, and undertake initial review of licenses prior to promulgation of emergency rules upon the effective date of this article.

(e) The commission shall levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross sports wagering receipts imposed by this article, and deposit all moneys into the Sports Wagering Fund, except as otherwise provided under this article.

(f) The commission may sue to enforce any provision of this article or any rule of the commission by civil action or petition for injunctive relief.

(g) The commission may hold hearings, administer oaths, and issue subpoenas or subpoenas duces tecum: *Provided*, That all hearings shall be conducted pursuant to the provisions of the State Administrative Procedures Act, §29A-2-1, *et seq.* of this code and the Lottery Administrative Appeal Procedures, W.Va. CSR §179-2-1, *et seq.*

(h) The commission may exercise any other powers necessary to effectuate the provisions of this article and the rules of the commission.

§29-22D-5. Licenses required.

(a) The commission shall not grant a license required under this article to any applicant until the commission has published the notice in the State Register, as required by §29-22D-15(f) of this code.

(b) No person may engage in any activity in connection with West Virginia Lottery sports wagering in this state unless all necessary licenses have been obtained in accordance with this article and rules of the commission. Four types of licenses: (1) Operator, (2) Supplier, (3) Management Services Provider, and (4) Occupational—are issued pursuant to this article, and no person or entity may engage in any sports wagering operation or activity without first obtaining the appropriate license.

(c) The commission may not grant a license until it determines that each person who has control of the applicant meets all qualifications for licensure. The following persons are considered to have control of an applicant:

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company, or subsidiary company of the applicant who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation; this does not include any bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business;

(2) Each person associated with a non-corporate applicant who directly or indirectly holds a beneficial or proprietary interest in the applicant's business operation, or who the commission otherwise determines has the ability to control the applicant; and

(3) Key personnel of an applicant, including any executive, employee, or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

(d) *License application requirements.* – All applicants for any license issued under this article shall submit an application to the commission in the form the commission requires and submit fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation. The commission may require additional background checks on licensees when they apply for annual license renewal, and any applicant convicted of any disqualifying offense shall not be licensed.

(e) Each sports wagering licensee, licensed supplier, or a licensed management services provider shall display the license conspicuously in its place of business or have the license available for inspection by any agent of the commission or any law-enforcement agency.

(f) Each holder of an occupational license shall carry the license and have some indicia of licensure prominently displayed

on his or her person when present in a licensed gaming facility at all times, in accordance with the rules of the commission.

(g) Each person licensed under this article shall give the commission written notice within 30 days of any change to any information provided in the licensee's application for a license or renewal.

(h) No commission employee may be an applicant for any license issued under this article nor may any employee of any such licensee directly or indirectly hold an ownership or a financial interest in any West Virginia Lottery sports wagering license.

§29-22D-6. Operator license; West Virginia Sports Wagering operators.

(a) In addition to the casino games permitted pursuant to the provisions of §29-22A-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, a licensed gaming facility may operate West Virginia Lottery sports wagering upon the approval of the commission, and the commission shall have the general responsibility for the implementation of this article and all other duties specified in §29-22-1 et seq., §29-22A-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, the provisions of this article, and applicable regulations.

(b) All sports wagering authorized by this article shall be West Virginia Lottery games owned by the State of West Virginia. An operator license granted by the commission pursuant to this article grants licensees lawful authority to conduct West Virginia Lottery sports wagering within the terms and conditions of the license and any regulations promulgated under this article.

(c) Sports wagering licenses. — The commission may issue up to five licenses to operate West Virginia Lottery sports wagering in accordance with the provisions of this article. No more than five licenses to operate a gaming facility with West Virginia Lottery sports wagering shall be permitted in this state.

(d) Grant of license. — Upon application by a gaming facility and payment of a \$100,000 application fee, the commission shall

immediately grant a West Virginia Lottery sports wagering license to an operator that provides for the right to conduct West Virginia Lottery sports wagering: *Provided*, That the applicant must hold a valid racetrack video lottery license issued by the commission, pursuant to §29-22A-1 *et seq.* of this code, or a valid license to operate a gaming facility, issued by the commission pursuant to §29-25-1 *et seq.* of this code, and otherwise meet the requirements for licensure under the provisions of this article and the rules of the commission. This license shall be issued for a five-year period, and may be renewed for five-year periods upon payment of a \$100,000 renewal fee, as long as an operator continues to meet all qualification requirements.

(e) *Location.* — A West Virginia Lottery sports wagering license authorizes the operation of West Virginia Lottery sports wagering at locations and through any mobile application or other digital platforms approved by the commission.

(f) *Management service contracts.* —

(1) *Approval.* — A West Virginia Lottery sports wagering licensee may not enter into any management service contract that would permit any person other than the licensee to act as the commission's agent in operating West Virginia Lottery sports wagering unless the management service contract: (A) is with a person licensed under this article to provide management services; (B) is in writing; and (C) has been approved by the commission.

(2) *Material change.* — The West Virginia Lottery sports wagering licensee shall submit any material change in a management service contract, previously approved by the commission, to the commission for its approval or rejection before the material change may take effect.

(3) *Other commission approvals and licenses.* — The duties and responsibilities of a management services provider under a management services contract may not be assigned, delegated, subcontracted, or transferred to a third party without the prior approval of the commission. Third parties must be licensed as a management services provider under this article before providing services.

(g) Expiration date and renewal. —

(1) A licensed operator shall submit to the commission such documentation or information as the commission may require demonstrating to the satisfaction of the director that the licensee continues to meet the requirements of the law and regulations. Required documentation or information shall be submitted no later than five years after issuance of an operator license and every five years thereafter, or within lesser periods based on circumstances specified by the commission.

(2) If the licensee fails to apply to renew its license issued pursuant to §29-22A-1 et seq. or §29-25-1 et seq. of this code prior to expiration, the commission shall renew its license under this article at the time the expired license is renewed as long as the licensee was operating in compliance with applicable requirements in the preceding license year.

(h) Surety bond. — A West Virginia Lottery sports wagering licensee shall execute a surety bond in an amount and in the form approved by the commission, to be given to the state, to guarantee the licensee faithfully makes all payments in accordance with the provisions of this article and rules promulgated by the commission.

(i) Audits. — Upon application for a license and annually thereafter, a West Virginia Lottery sports wagering licensee shall submit to the commission an annual audit of the financial transactions and condition of the licensee's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable federal and state laws.

(j) Commission office space. — A West Virginia Lottery sports wagering licensee shall provide suitable office space at the sports wagering facility, at no cost, for the commission to perform the duties required of it by this article and the rules of the commission.

(k) Facility qualifications. — A West Virginia Lottery sports wagering licensee shall demonstrate that its gaming facility with West Virginia Lottery sports wagering will: (1) be accessible to

disabled individuals, in accordance with applicable federal and state laws; (2) be licensed in accordance with this article, and all other applicable federal, state, and local laws; and (3) meet any other qualifications specified in rules adopted by the commission. Notwithstanding any provision of this code or any rules promulgated by the Alcohol Beverage Control Commissioner to the contrary, vacation of the premises after service of beverages ceases is not required for any licensed gaming facility.

§29-22D-7. Management services providers; license requirements.

(a) License. — The holder of a license to operate West Virginia Lottery sports wagering may contract with an entity to conduct that operation in accordance with the regulations of the commission. That entity shall obtain a license as a management services provider prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of this article and any regulations promulgated by the commission.

(b) License qualifications and fee. — Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee of \$1,000. The commission may adopt rules establishing additional requirements for an authorized management services provider. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets authorized management services provider licensing requirements.

(c) Renewal. — Management services provider licenses shall be renewed annually to any licensee who continues to be in compliance with all requirements and who pays the annual renewal fee of \$1,000.

(d) Any entity or individual who shares in revenue, including any affiliate operating under a revenue share agreement, shall be licensed under this section.

§29-22D-8. Suppliers; license requirements.**(a) Supplier License. —**

(1) The commission may issue a supplier license to a person to sell or lease sports wagering equipment, systems, or other gaming items necessary to conduct sports wagering, and offer services related to such equipment or other gaming items to a West Virginia Lottery sports wagering licensee while the license is active. The commission may establish the conditions under which the commission may issue provisional licenses, pending completion of final action on an application.

(2) The commission may adopt rules establishing additional requirements for a West Virginia Lottery sports wagering supplier and any system or other equipment utilized for wagering. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets West Virginia Lottery sports wagering supplier licensing requirements.

(b) Supplier specifications. — An applicant for a supplier license shall demonstrate that the equipment, system, or services that the applicant plans to offer to the sports wagering licensee conform to standards established by the commission and applicable state law. The commission may accept approval by another jurisdiction, that it specifically determines have similar equipment standards, as evidence the applicant meets the standards established by the commission and applicable state law.

(c) License application and renewal fees. — Applicants shall pay to the commission a nonrefundable license and application fee in the amount of \$1,000. After the initial one-year term, the commission shall renew supplier licenses annually thereafter. Renewal of a supplier license will be granted to any renewal applicant who has continued to comply with all applicable statutory and regulatory requirements, upon submission of the commission issued renewal form and payment of a \$1,000 renewal fee.

(d) *Inventory.* — A licensed sports wagering supplier shall submit to the commission a list of all sports wagering equipment and services sold, delivered to, or offered to a West Virginia Lottery sports wagering licensee in this state, as required by the commission, all of which must be tested and approved by an independent testing laboratory approved by the commission. A sports wagering licensee may continue to use supplies acquired from a licensed sports wagering supplier, even if a supplier's license expires or is otherwise cancelled, unless the commission finds a defect in the supplies.

§29-22D-9. Occupational Licenses.

(a) All persons employed to be engaged directly in sports wagering-related activities, or otherwise conducting or operating sports wagering, shall be licensed by the Commission and maintain a valid occupational license at all times and the commission shall issue such license to be employed in the operation of sports wagering to a person who meets the requirements of this section.

(b) An occupational license to be employed by a gaming facility with West Virginia Lottery sports wagering permits the licensee to be employed in the capacity designated by the commission while the license is still active. The commission may establish, by rule, job classifications with different requirements to recognize the extent to which a particular job has the ability to impact the proper operation of West Virginia Lottery sports wagering.

(c) *Application and fee.* — Applicants shall submit any required application forms established by the commission and pay a nonrefundable application fee of \$100. The fee may be paid on behalf of an applicant, by the employer.

(d) *Renewal fee and form.* — Each licensed employee shall pay to the commission an annual license fee of \$100 by June 30 of each year. The fee may be paid on behalf of the licensed employee, by the employer. In addition to a renewal fee, each licensed employee shall annually submit a renewal application on the form required by the commission.

§29-22D-10. License prohibitions.

(a) The commission may not grant any license, pursuant to the provisions of this article, if evidence satisfactory to the commission exists that the applicant:

(1) Has knowingly made a false statement of a material fact to the commission;

(2) Has been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental authority responsible for regulation of gaming activities;

(3) Has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order; or

(4) Is a company or individual who has been directly employed by any illegal or offshore book that serviced the United States, or otherwise accepted black market wagers from individuals located in the United States.

(b) The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

(1) If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;

(2) If the applicant or licensee is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business; or

(3) If the applicant or licensee is a corporation which sells more than five percent of a licensee's voting stock, or more than five percent of the voting stock of a corporation which controls the licensee, or sells a licensee's assets, other than those bought and sold in the ordinary course of business, or any interest in the assets,

to any person not already determined by the commission to have met the qualifications of a licensee under this article.

(c) In the case of an applicant for a sports wagering license, the commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if an applicant has not met the requirements of this section or any other provision of this article.

§29-22D-11. Sports wagering house rules; posting of rules.

(a) Each operator shall adopt comprehensive house rules for game play governing sports wagering transactions with its patrons. These comprehensive rules will be published as part of the minimum internal control standards. The rules shall specify the amounts to be paid on winning wagers and the effect of schedule changes. House rules shall be approved by the commission prior to implementation.

(b) The house rules, together with any other information the commission deems appropriate, shall be conspicuously displayed and included in the terms and conditions of the sports wagering system. Copies shall be made readily available to patrons.

(c) The commission shall license and require the display of West Virginia Lottery game logos on game surfaces, other gaming items, and any locations the commission considers appropriate.

§29-22D-12. Operator duties; sports wagering operations at a licensed gaming facility.

(a) General. — All operators licensed under this article to conduct West Virginia Lottery sports wagering shall:

(1) Employ a monitoring system utilizing software to identify non-normal irregularities in volume or odds swings which could signal suspicious activities that should require further investigation which shall be immediately reported and investigated by the commission. System requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards.

(2) Promptly report to the commission any facts or circumstances related to the operation of a West Virginia Lottery sports wagering licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator that has been approved by the commission to the appropriate state or federal authorities;

(3) Conduct all sports wagering activities and functions in a manner which does not pose a threat to the public health, safety, or welfare of the citizens of this state and does not adversely affect the security or integrity of the West Virginia Lottery;

(4) Hold the commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against a licensee, the commission, the state, or employees thereof, arising from the licensee's actions or omission while acting as an agent of the commission operating West Virginia Lottery sports wagering pursuant to this article;

(5) Assist the commission in maximizing sports wagering revenues; and

(6) Keep current in all payments and obligations to the commission.

(b) Duties. — All West Virginia Lottery sports wagering licensees shall:

(1) Acquire West Virginia Lottery sports wagering gaming equipment by purchase, lease, or other assignment and provide a secure location for the placement, operation, and play of sports wagering gaming equipment;

(2) Prevent any person from tampering with or interfering with the operation of any West Virginia Lottery sports wagering;

(3) Ensure that West Virginia Lottery sports wagering conducted at a gaming facility is within the sight and control of designated employees of the licensee and such wagering at the facility or otherwise available by the licensee is conducted under

continuous observation by security equipment in conformity with specifications and requirements of the commission;

(4) Ensure that West Virginia Lottery sports wagering occurs only in the specific locations within designated gaming areas approved by the commission or using a commission approved mobile application or other digital platform that utilizes communications technology to accept wagers originating within this state, or on a sports wagering device. West Virginia Lottery sports wagering shall only be relocated or offered in additional authorized manners in accordance with the rules of the commission;

(5) Maintain sufficient cash and other supplies to conduct sports wagering at all times; and

(6) Maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the licensee from West Virginia Lottery sports wagering and shall timely file with the commission any additional reports required by rule or by other provisions of this code.

§29-22D-13. Posting of betting limits.

A sports wagering licensee shall conspicuously post a sign at each West Virginia Lottery sports wagering location indicating the minimum and maximum wagers permitted at that location and shall comply with the same.

§29-22D-14. Sports wagering agreements with other governments.

(a) On behalf of the State of West Virginia, the commission is authorized to:

(1) Enter into sports wagering agreements with other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments; and

(2) Take all necessary actions to ensure that any sports wagering agreement entered into, pursuant to this section, becomes effective.

(b) The regulations adopted by the commission pursuant to this section may include provisions prescribing:

(1) The form, length, and terms of an agreement entered into by the commission and another government, including, but not limited to, provisions relating to how: taxes are to be treated by this state and another government; revenues are to be shared and distributed; and disputes with patrons are to be resolved;

(2) The information to be furnished to the commission by a government that proposes to enter into an agreement with this state pursuant to this section;

(3) The information to be furnished to the commission to enable the commission and director to carry out the purposes of this section;

(4) The manner and procedure for hearings conducted by the commission pursuant to this section, including any special rules or notices; and

(5) The information required to be furnished to the commission to support any recommendations made to the commission, pursuant to this section.

(c) The commission may not enter into any sports wagering agreement, pursuant to this section, unless the agreement includes provisions that:

(1) Account for the sharing of revenues by this state and another government;

(2) Permit the effective regulation of sports wagering by this state, including provisions relating to licensing of persons, technical standards, resolution of disputes by patrons, requirements for bankrolls, enforcement, accounting, and maintenance of records;

(3) Require each government that is a signatory to the agreement to prohibit operators of sports wagering, management or other service providers, or suppliers, manufacturers or distributors of sports wagering systems from engaging in any activity permitted by the sports wagering agreement unless they are licensed in this state or in a signatory jurisdiction with similar requirements approved by the commission;

(4) No variation from the requirements of the sports wagering agreement is permitted for any signatory government without a lack of opposition by this state and all signatory governments;

(5) Prohibit any subordinate or side agreements among any subset of governments that are signatories to the agreement unless it relates exclusively to the sharing of revenues; and

(6) Require the government to establish and maintain regulatory requirements governing sports wagering that are consistent with the requirements of this state in all material respects if the sports wagering agreement allows persons physically located in this state to participate in sports wagering conducted by another government or an operator licensed by another government.

§29-22D-15. Authorization of sports wagering in this state; requirements.

(a) An operator shall accept wagers on sports events and other events authorized under this article from persons physically present in a licensed gaming facility where authorized sports wagering occurs, or from persons not physically present who wager by means of electronic devices. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or a sports wagering device, approved by the commission, through the patron's sports wagering account.

(c) An operator may accept wagers from an individual physically located in a state or jurisdiction with which the commission has entered into a sports wagering agreement using a

mobile or other digital platform or a sports wagering device through the patron's sports wagering account, so long as the device or platform is approved by the commission and all other requirements of the agreement are satisfied.

(d) The commission or operator may ban any person from entering a gaming area of a gaming facility conducting sports wagering or the grounds of a gaming facility licensed under this article or from participating in the play or operation of any West Virginia Lottery sports wagering. A log of all excluded players shall be kept by the commission and each licensee, and no player on the commission's exclusion list or the licensed operator's exclusion list shall wager on any West Virginia Lottery sports wagering under this article.

(e) The commission shall promulgate regulations implementing the provisions of subsection (a) of this section by interpretive rule and minimum internal control standards.

(f) The commission shall, when a Federal law is enacted or repealed or when a Federal court decision is issued that permits a state to regulate sports wagering, publish a notice in the State Register notifying the public of the enactment or repeal of federal law or of the issuance of such court decision. The commission shall not be authorized to conduct sports wagering in this state until the notice prescribed in this subsection is published in the State Register.

(g) No licensed gaming facility employee may place a wager on any sports wagering at the employer's facility or through any other mobile application or digital platform of their employer.

(h) No commission employee may knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery sports wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a sports wagering licensee.

§29-22D-16. Sports wagering revenues; accounting for the state's share of revenue imposed for the privilege of offering West Virginia Lottery sports wagering; limitation of other taxes; recoupment for improvements.

(a) Imposition and rate of assessment. — For the privilege of holding a license to operate sports wagering under this article, the state shall impose and collect ten percent of the licensee's adjusted gross sports wagering receipts from the operation of West Virginia Lottery sports wagering (hereinafter "privilege tax" or "tax"). The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee.

(b) Operator revenue reports and payment of privilege tax. —

(1) The tax levied and collected pursuant to subsection (a) of this section is due and payable to the commission in weekly installments on or before the Wednesday following the calendar week in which the adjusted gross sports wagering receipts were received and the tax obligation was accrued.

(2) The licensed operator shall complete and submit the return for the preceding week by electronic communication to the commission, on or before Wednesday of each week, in the form prescribed by the commission that provides:

(A) The total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of West Virginia Lottery sports wagering during that week;

(B) The tax amount for which the sports wagering licensee is liable; and

(C) Any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the commission.

(3) The tax amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return. All moneys received by the commission pursuant to this

section shall be deposited in the Sports Wagering Fund in accordance with the provisions of this article.

(4) When adjusted gross receipts for a week is a negative number because the winnings paid to patrons wagering on the licensee's West Virginia Lottery sports wagering exceeds the licensee's total gross receipts from sports wagering by patrons, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent weeks. The negative amount of adjusted gross receipts may not be carried back to an earlier week and moneys previously received by the commission will not be refunded, except if the licensee surrenders its operator's license and the licensee's last return reported negative adjusted gross receipts. In that case, the commission shall multiply the amount of negative adjusted gross receipts by 10 percent and pay the amount to the licensee in the manner approved by the commission.

(c) *Privilege tax obligation imposed by this section is in lieu of other taxes.* —

With the exception of the ad valorem property tax collected under chapter eleven-a of this code, the privilege tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of West Virginia Lottery sports wagering, except as otherwise provided in this section. The Consumers Sales and Services Tax imposed pursuant to §11-15-1 et seq. of this code, the Use Tax imposed by §11-15A-1 et seq. of this code and any similar local tax imposed at the municipal or county level, shall not apply to the licensee's gross receipts from any West Virginia Lottery sports wagering or to the licensee's purchase of sports wagering equipment, supplies, or services directly used in operation of the sports wagering authorized by this article.

(d) Acquisition of any system or wagering equipment and other items related to the operation of West Virginia sports wagering shall be considered "facility modernization improvements" eligible for recoupment as defined in §29-22A-10(b)(2) and §29-25-22(c) of this code.

(e) Prohibition on credits. — Notwithstanding any other provision of this code to the contrary, no credit may be allowed against the privilege tax obligation imposed by this section or against any other tax imposed by any other provision of this code for any investment in gaming equipment or for any investment in or improvement to real property that is used in the operation of West Virginia Lottery sports wagering.

§29-22D-17. West Virginia Lottery Sports Wagering Fund; distribution of funds.

(a) The special fund in the State Treasury known as the West Virginia Lottery Sports Wagering Fund is hereby created and all moneys collected under this article by the commission shall be deposited with the State Treasurer to the West Virginia Lottery Sports Wagering Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the Sports Wagering Fund pursuant to subsection (b) of this section.

(b) The commission shall deduct an amount sufficient to reimburse its actual costs and expenses incurred in administering sports wagering at licensed gaming facilities from the gross deposits into the Sports Wagering Fund. The amount remaining after the deduction for administrative expenses is the net profit.

(1) Administrative allowance. — The commission shall retain up to 15 percent of gross deposits for the fund operation and its administrative expenses: *Provided*, That in the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate but may not exceed \$250,000. On a monthly basis, the director shall report any surplus in excess of \$250,000 to the Joint Committee on Government and Finance and remit the entire amount of those surplus funds in excess of \$250,000 to the State Treasurer which shall be allocated as net profit.

(2) Distribution of net profit. — In each fiscal year, net profit shall be deposited into the State Lottery Fund created by §29-22-18 of this code until a total of \$15 million is deposited; thereafter, the remainder shall be deposited into the Public Employees Insurance Agency Financial Stability Fund to stabilize and preserve the future solvency of PEIA, and such amount may not be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

§29-22D-18. Law enforcement.

(a) Notwithstanding any provision of this code to the contrary, the commission shall, by contract or cooperative agreement with the West Virginia State Police, arrange for those law-enforcement services uniquely related to gaming, as such occurs at facilities of the type authorized by this article, that are necessary to enforce the provisions of this article that are not subject to federal jurisdiction: *Provided*, That the State Police shall only have exclusive jurisdiction over offenses committed on the grounds of a licensed gaming facility that are offenses relating to gaming.

§29-22D-19. Civil penalties.

(a) The commission may impose, on any person who violates the provisions of this article, a civil penalty not to exceed \$50,000 for each violation. Such penalty shall be imposed on all individuals and is not limited to individuals licensed under this article. This provision shall not be construed as applicable to office pools.

(b) The provisions of §29A-5-1 *et seq.* of this code apply to any civil penalty imposed pursuant to the provisions of this section.

§29-22D-20. Crimes and penalties related to unauthorized sports wagering operations.

(a) Any person, other than a licensee under this article, who engages in accepting, facilitating, or operating a sports wagering operation is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or confined in jail for not more than ninety days, or both fined and confined.

(b) Notwithstanding the penalty provisions of subsection (a) of this section, any person convicted of a second violation of subsection (a) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$50,000, or confined in jail for not more than 6 months, or both fined and confined.

(c) Notwithstanding the penalty provisions of subsections (a) or (b) of this section, any person convicted of a third or subsequent violation of said subsection (a) is guilty of a felony, and upon conviction thereof, shall be fined not less than \$25,000 nor more than \$100,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

§29-22D-21. Crimes and penalties related to authorized sports wagering operation.

(a) A sports wagering licensee is guilty of unlawful operation and is guilty of a misdemeanor when:

(1) The licensee operates West Virginia Lottery sports wagering without authority of the commission to do so;

(2) The licensee operates West Virginia Lottery sports wagering in any location or by any manner that is not approved by the commission;

(3) The licensee knowingly conducts, carries on, operates, or allows any sports wagering to occur on premises or through any other device if equipment or material has been tampered with, or exposed to conditions in which it will be operated in a manner designed to deceive the public;

(4) The licensee employs an individual who does not hold a valid occupational license in a position for which a license is required or otherwise allows an individual to perform duties for which such license is required or continues to employ an individual after the employee's occupational license is no longer valid;

(5) The licensee acts or employs another person to act as if he or she is not an agent or employee of the licensee in order to

encourage participation in West Virginia Lottery sports wagering at the licensed gaming facility;

(6) The licensee knowingly permits an individual under the age of 21 to enter or remain in a designated gaming area or to engage in sports wagering at a licensed gaming facility; or

(7) The licensee exchanges tokens, chips, electronic media, or other forms of credit used for wagering for anything of value except money or credits applied to a sports wagering account at a gaming facility authorized under this article.

(b) A person is guilty of a felony when:

(1) A person offers, promises, or gives anything of value to anyone for the purpose of influencing the outcome of a race, sporting event, contest, or game upon which a wager may be made, or a person places, increases, or decreases a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given anything of value for the purpose of influencing the outcome of the race, sporting event, contest, or game upon which the wager is placed, increased or decreased, or attempts to do any of the same;

(2) A person changes or alters the normal outcome of any game played on a mobile or other digital platform, including any interactive gaming system used to monitor the same or the way in which the outcome is reported to any participant in the game;

(3) The person manufactures, sells, or distributes any device that is intended by that person to be used to violate any provision of this article or the sports wagering laws of any other state;

(4) The person places a bet or aids any other individual in placing a bet on a sporting event or other sports wagering game or offering authorized under this article after unlawfully acquiring knowledge of the outcome on which winnings from that bet are contingent;

(5) The person claims, collects, or takes anything of value from a gaming facility with West Virginia Lottery sports wagering with

intent to defraud or attempts such action without having made a wager in which such amount or value is legitimately won or owed:

(6) The person knowingly places a wager using counterfeit currency or other counterfeit form of credit for wagering at a gaming facility with West Virginia Lottery sports wagering; or

(7) The person, not a licensed gaming facility under this article or an employee or agent of a gaming facility licensed under this article acting in furtherance of the licensee's interest, has in his or her possession on grounds owned by the gaming facility licensed under this article or on grounds contiguous to the licensed gaming facility, any device intended to be used to violate a provision of this article or any rule of the commission.

(c) Any person who violates any provision of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than six months, or both fined and confined, except any violation that is not committed by a natural person may result in a fine of not more than \$25,000.

(d) Any person who violates any provision of subsection (b) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000, or confined in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

(e) With regard to subsection (b) of this section, each West Virginia sports wagering licensee shall post notice of the prohibitions and penalties of this section in a manner determined by the rules of the commission.

§29-22D-22. Preemption.

No local law or rule providing any penalty, disability, restriction, regulation, or prohibition for operating a gaming facility with West Virginia Lottery sports wagering or supplying a licensed gaming facility may be enacted, and the provisions of this article preempt all regulations, rules, ordinances, and laws of any county or municipality in conflict with this article.

§29-22D-23. Exemption from federal law.

Pursuant to Section 2 of Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1172, approved January 2, 1951, the State of West Virginia, acting by and through duly elected and qualified members of the Legislature, does declare and proclaim that the state is exempt from chapter 1194, 64 Stat. 1134, 15 U.S.C. §1171 to §1178.

§29-22D-24. Shipment of gambling devices.

All shipments of gambling devices including any sports wagering devices or related materials to licensed gaming facilities in this state are legal shipments of gambling devices into the State of West Virginia, as long as the registering, recording, and labeling of which have been completed by the supplier thereof in accordance with Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1171 to §1178.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub for Senate Bill 415—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-22D-1, §29-22D-2, §29-22D-3, §29-22D-4, §29-22D-5, §29-22D-6, §29-22D-7, §29-22D-8, §29-22D-9, §29-22D-10, §29-22D-11, §29-22D-12, §29-22D-13, §29-22D-14, §29-22D-15, §29-22D-16, §29-22D-17, §29-22D-18, §29-22D-19, §29-22D-20, §29-22D-21, §29-22D-22, §29-22D-23, and §29-22D-24, all relating to permitting wagering on the results of certain professional or collegiate sports or athletic events and other events authorized as West Virginia Lottery sports wagering activities, after a federal law against such wagering is no longer in effect; providing legislative findings; defining terms; detailing duties and powers of the West Virginia Lottery Commission; providing rule-making authority and emergency rule-making authority; requiring Commission to levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross sports wagering receipts and deposit them into the West Virginia Lottery Sports Wagering Fund;

limiting sports wagering to existing racetrack casinos and the casino in a historic resort hotel; providing for four types of licenses to be issued related to sports betting; establishing license requirements and prohibitions; authorizing licensing fees; requiring adoption and posting of house rules; defining duties of an operator conducting sports wagering; requiring the posting of betting limits; authorizing sports wagering agreements with other governments; providing powers and duties of Commission and operators; limiting certain activities of employees; authorizing the West Virginia Lottery to levy and collect a privilege tax in the amount of ten percent of adjusted gross sports wagering receipts; requiring reports and submission of taxes; providing for certain carry over and carry back allowances; clarifying that tax is in lieu of certain other taxes; providing that certain expenditures related to sports wagering are facility modernization improvements eligible for recoupment; providing that credits are not allowed against the privilege tax; creating the West Virginia Lottery Sports Wagering Fund; authorizing the West Virginia Lottery to collect an administrative allowance from gross sports wagering receipts; providing for distribution of moneys deposited in the West Virginia Lottery Sports Wagering Fund; authorizing certain agreements between the West Virginia Lottery and law enforcement; imposing civil penalties for certain violations, and exception; prohibiting unauthorized sports wagering in this state; establishing crimes related to unauthorized sports wagering and imposing criminal penalties; establishing crimes related to authorized sports wagering and imposing criminal penalties; preempting provisions from state and local law; and establishing certain exemptions from federal law.

Senator Ferns moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 415, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Jeffries, Karnes, Mann, Maroney, Palumbo, Plymale, Rucker, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Azinger, Beach, Facemire, Gaunch, Maynard, Ojeda, Prezioso, Romano, Smith, and Sypolt—10.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 415) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Jeffries, Karnes, Mann, Maroney, Palumbo, Plymale, Rucker, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Azinger, Beach, Facemire, Gaunch, Maynard, Ojeda, Prezioso, Romano, Smith, and Sypolt—10.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 415) takes effect from passage.

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

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

Eng. Senate Bill 444, Repealing antiquated code sections regarding safety glass and lighting in motor vehicles.

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

Eng. Senate Bill 464, Changing statutory payment date for incremental salary increases due state employees.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

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

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

Delegates Hanshaw, Moore, and Lovejoy.

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

Eng. Com. Sub. for House Bill 4138, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

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

Eng. Com. Sub. for House Bill 4199, Permitting a nursing home to use trained individuals to administer medication.

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

House Concurrent Resolution 87—Requesting the Division of Highways name bridge number 28-77-13.73 NB - SB (28A203, 28A204), locally known as I-77 Over Mercer 7 Bridges, carrying

I-77 NB - SB over Route 7 in Mercer County, West Virginia, the “Constable Joseph H. Davidson Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 2nd day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 71), Defining “veteran” as it pertains to veteran-owned business.

And,

(Com. Sub. for S. B. 237), Authorizing Department of Revenue promulgate legislative rules.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 4016, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4042, Redefining school zone to facilitate placement of school zone signs.

And has amended same.

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

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

Eng. Com. Sub. for House Bill 4035, Creating a legislative coalition to study and report to the Legislature on palliative care.

With amendments from the Committee on Health and Human Resources pending;

And reports the same back with the recommendation that it do pass as amended by the Committee on Health and Human Resources to which the bill was first referred.

Respectfully submitted,

Charles S. Trump IV,
Chair.

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

Your Committee on Education has had under consideration

Eng. House Bill 4183, Relating generally to standardized testing requirements for nonpublic schools.

And has amended same.

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

Respectfully submitted,

Robert Karnes,
Vice 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 4275, Relating to the law-enforcement authority of the director and officers of the division of protective services.

Eng. Com. Sub. for House Bill 4400, Relating to the West Virginia Physicians Mutual Insurance Company.

And,

Eng. Com. Sub. for House Bill 4546, Relating to where an application for a marriage license may be made.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

The Senate proceeded to the sixth order of business.

Senators Carmichael (Mr. President), Plymale, and Stollings offered the following resolution:

Senate Concurrent Resolution 48—Requesting the Division of Highways name bridge number 20-77-130.80, NB and SB, (18A157, 18A156), carrying Interstate 77 over County Route

21/28, locally known as CR 21/28 Overpass Bridge in Jackson County, the “U. S. Army MSG Monty Ray Skeen, Sr., Memorial Bridge”.

Whereas, MSG Monty Ray Skeen, Sr., was born on June 23, 1957, the son of Barbara Jean Scott and Charles Wayne Skeen; and

Whereas, MSG Monty Ray Skeen, Sr., married Regina Mae Skeen and had two children: Monty Ray Skeen, Jr and Shery Ann Zimmermann, and lived in Jackson County; and

Whereas, MSG Monty Ray Skeen, Sr., joined the U. S. Army in 1976 and began serving his country. He attained the rank of Master Sergeant after 20 years of service, including Desert Storm and the Gulf War. While serving, he was awarded the following medals: Two Meritorious Service Medals; four Army Commendation Medals, Southwest Asia Service Medal; three Overseas Service Ribbon, Expert Badge M-16 Rifle; and many others; and

Whereas, In 1997, MSG Monty Ray Skeen, Sr., retired from the Army and worked as a shift supervisor for Rite Aid Distribution Center in Poca, West Virginia, where he worked for 20 years; and

Whereas, MSG Monty Ray Skeen, Sr., passed away suddenly due to onset complications of acute myeloid leukemia on November 4, 2016, at Charleston Area Medical Center, Memorial Hospital; and his family still misses him immensely; and

Whereas, It is fitting that an enduring memorial be established to commemorate MSG Monty Ray Skeen’s service to his state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 20-77-130.80, NB and SB, (18A157, 18A156), carrying Interstate 77 over County Route 21/28, locally known as CR 21/28 Overpass Bridge in Jackson County, the “U. S. Army MSG Monty Ray Skeen, Sr., Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army MSG Monty Ray Skeen, Sr., Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senators Jeffries, Baldwin, Beach, Ojeda, Prezioso, Romano, Stollings, and Plymale offered the following resolution:

Senate Concurrent Resolution 49—Requesting the Division of Highways name bridge number 22-77-103.66, NB and SB, (20A442, 25A443), locally known as I-77 Surface Drive Overpass, carrying Interstate 77 over Surface Drive CR 119/37 in Kanawha County, the “U. S. Army PFC Robert “Bobby” Tate, Jr., Memorial Bridge”.

Whereas, Robert “Bobby” Tate, Jr., was born in Charleston, West Virginia, on February 22, 1949, and was a lifelong resident of the Kanawha Two-Mile area, from a family that has lived in Kanawha County for more than 100 years; and

Whereas, Robert “Bobby” Tate, Jr., attended Bonham Elementary School, Woodrow Wilson Junior High School, and Sissonville High School and was always known as a hard-working young man. When he was not in school, he helped to support his family by working as a stock boy at Pickway Grocery; and

Whereas, Robert “Bobby” Tate, Jr., joined the U. S. Army and began a tour of duty in Vietnam in January 1969 as an Indirect Fire Infantryman in the 196th Infantry Brigade; and

Whereas, PFC Robert “Bobby” Tate, Jr., died in the line of duty due to hostile groundfire on March 20, 1969, and was posthumously recognized with the Purple Heart medal; and

Whereas, PFC Robert “Bobby” Tate, Jr., has been interred in the Lane Cemetery at Eden’s Fork in Kanawha County; and

Whereas, It is fitting that a permanent memorial be established to honor the service and sacrifice of PFC Robert “Bobby” Tate, Jr.; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways name bridge number 22-77-103.66, NB and SB, (20A442, 25A443), locally known as I-77 Surface Drive Overpass, carrying Interstate 77 over Surface Drive CR 119/37 in Kanawha County, the “U. S. Army PFC Robert “Bobby” Tate, Jr., Memorial Bridge”; and be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Robert “Bobby” Tate, Jr., Memorial Bridge”; and, be it

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

Which, under the rules, lies over one day.

Senator Prezioso moved that Senator Prezioso’s motion that **Engrossed Committee Substitute for House Bill 4145** (*Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel*) be discharged from the Committee on Finance be taken from the table, having been laid on the table by Senate action on yesterday, Friday, March 2, 2018.

Senator Ferns then moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Prezioso’s motion that Engrossed Committee Substitute for House Bill 4145 be discharged from the Committee on Finance be taken from the table.

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

The question now being on the adoption of Senator Prezioso's aforestated motion, and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Baldwin, Beach, Facemire, Jeffries, Mann, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

The nays were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Prezioso's aforestated motion had not prevailed.

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

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

Your Committee on Education has had under consideration

Senate Concurrent Resolution 50 (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study establishing a requirement that the Department of Education, or county board, as applicable, provide free feminine hygiene products to female students in grades 5 through 12.

Whereas, According to data from the United States Census Bureau's 2015 American Community Survey, West Virginia ranked eighth in child poverty; and

Whereas, Impoverished female students may not have access to feminine hygiene products at home; and

Whereas, All female students deserve dignity and the right to learn without the worry of their menstrual cycle making them feel ashamed or preventing them from attending class; and

Whereas, West Virginia is dedicated to the success of all students, no matter their socioeconomic status or sex; and

Whereas, An environment for student success is promoted when students are comfortable, unashamed, and present in the classroom; and

Whereas, Senate Bill 599, introduced during the 2018 regular session of the Legislature, established a requirement that the Department of Education, or county board, provide feminine hygiene products to female students at no cost; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study establishing a requirement that the Department of Education, or county board, as applicable, provide free feminine hygiene products to female students in grades 5 through 12.

Further Resolved, That the study shall determine the feasibility of establishing the requirement and options for funding the distribution of feminine hygiene products to female students; and, be it

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

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid

from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Robert Karnes,
Vice Chair.

On motion of Senator Karnes, the resolution (S. C. R. 50) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

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 H. B. 2607) passed.

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

Eng. Com. Sub. for House Bill 2607—A Bill to amend and reenact §62-12-10 of the Code of West Virginia, 1931, as amended, relating to extending the maximum period of confinement a judge may impose for certain, first-time probationary violations from 60 days to six months; and providing judges greater sentencing discretion for certain violations of probation.

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

Eng. Com. Sub. for House Bill 2654, Expanding county commissions' ability to dispose of county or district property.

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, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Woelfel—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2654) passed with its title.

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

Eng. Com. Sub. for House Bill 2693, Relating to state ownership of wildlife.

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 H. B. 2693) passed with its title.

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

Eng. Com. Sub. for House Bill 2983, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

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 H. B. 2983) passed with its title.

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

Eng. Com. Sub. for House Bill 3005, Relating to regulation of unmanned aircraft systems.

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 H. B. 3005) passed.

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

Eng. Com. Sub. for House Bill 3005—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1 and §61-14-2, all relating to regulation of unmanned aircraft systems; defining terms; creating misdemeanor criminal offense for certain conduct using an unmanned aircraft system and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system equipped with a lethal weapon, creating an exception thereto for military purposes in an official capacity; and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system with the intent to cause damage or disrupt in any way the flight of a manned aircraft and setting penalties therefor; and creating an exception for operating an unmanned aircraft system for commercial purposes that is authorized by the Federal Aviation Administration in a manner that is consistent with federal law.

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

Eng. Com. Sub. for House Bill 4180, Relating to wildlife resources.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 H. B. 4180) passed with its title.

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

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

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as director of a community bank which, on occasion, sells guaranteed asset protection waivers.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Plymale, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Beach, Facemire, Ojeda, Prezioso, and Romano—5.

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 H. B. 4186) passed.

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

Eng. Com. Sub. for House Bill 4186—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating generally to guaranteed asset protection waivers; providing short title, purpose, legislative intent, and applicability of section; providing that guaranteed asset protection waivers are not insurance and are exempt from the insurance laws of this state; providing further exemptions; defining certain terms; providing requirements for offering guaranteed asset protection waivers; requiring contractual liability or other insurance policies on guaranteed asset protection waivers in certain circumstances; requiring certain disclosures; providing for cancellation or non-cancellation; specifying requirements upon cancellation in certain circumstances; and exempting certain requirements in commercial transactions.

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

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

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.

Eng. Com. Sub. for House Bill 4230, Relating to credit for reinsurance.

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 H. B. 4230) passed with its title.

Senator Ferns moved that the bill take effect January 1, 2019.

On this question, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4230) takes effect January 1, 2019.

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

Eng. Com. Sub. for House Bill 4236, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

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 H. B. 4236) passed with its title.

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

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

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

Pending extended discussion,

Senator Woelfel moved the previous question.

Senator Woelfel requested unanimous consent that his foregoing motion be withdrawn.

Senator Smith objecting.

The Chair stated that, under Rule XVI, Clause 2, of the Rules of the House of Representatives, the Senator is allowed to withdraw his motion.

Whereupon, Senator Woelfel's motion for the previous question was withdrawn.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4268 pass?"

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

The nays were: Baldwin, Beach, Facemire, Jeffries, Mann, Ojeda, Prezioso, Romano, Stollings, Sypolt, and Unger—11.

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 H. B. 4268) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill. 4268—A Bill to amend and reenact §22C-9-3 and §22C-9-4 of the Code of West Virginia, 1931, as amended, to amend and reenact §37-7-2 of said code; and

to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-2-1, §37B-2-2, §37B-2-3, §37B-2-4, §37B-2-5, §37B-2-6, §37B-2-7, §37B-2-8, and §37B-2-9, all relating generally to real property; providing the Oil and Gas Conservation Commission enforcement authority for certain mineral development by cotenants; providing an exception to waste and trespass for certain oil or natural gas developments; providing a short title; providing declarations of public policy and legislative findings; providing definitions; providing that, in cases where there are seven or more royalty owners, consent for the lawful use and development of oil or natural gas mineral property by the persons owning an undivided three fourths of the royalty interests, as defined, in an oil or natural gas mineral property is permissible, is not waste, and is not trespass; providing that nonconsenting cotenants may elect a production royalty interest or a working interest share of production; providing an election period and default elections; providing a certain right of appeal; providing that interests owned by unknown or unlocatable owners be reserved, reported, and deposited in a fund administered by the State Treasurer; providing methods for determination of leasehold and contractual terms; providing for the development of specifically targeted stratigraphic formations; providing the Oil and Gas Conservation Commission rule-making authority; providing a mechanism for surface owners to acquire title to certain severed oil and gas interests; providing limitations of liability for certain nonconsenting cotenants and unknown or unlocatable interest owners; prohibiting surface use or disturbance in certain circumstances; preserving common law rights; providing for severability of provisions; providing a short title; providing that the article shall be read in conjunction and not in conflict with the West Virginia Uniform Unclaimed Property Act; providing definitions; providing for quarterly reporting and remittance of each reserved interest for each unknown or unlocatable interest owner to the State Treasurer; providing reporting requirements and administrative duties; creating a fund known as the Unknown and Unlocatable Interest Owners Fund, to be administered by the State Treasurer; permitting investment of moneys in the fund with the West Virginia Board of Treasury Investments; requiring payment of

lawful claims of unknown and unlocatable interest owners; permitting deduction of certain expenses; requiring that certain funds be transferred to the Oil and Gas Reclamation Fund and the Public Employees Insurance Agency Stability Fund in equal amounts; providing for certain notice requirements; providing for the crediting of certain amounts to each owner's account and payment of certain interest earned; providing for rule-making authority; providing for severability of provisions; and providing an effective date.

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

Eng. Com. Sub. for House Bill 4289, Relating to disability pensions of municipal employees.

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 H. B. 4289) passed with its title.

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

Eng. Com. Sub. for House Bill 4343, Relating to the delivery of financial statements to bank shareholders.

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

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as director of a community bank which sends annual audited financial statements to its shareholders.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

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 H. B. 4343) passed with its title.

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

Eng. Com. Sub. for House Bill 4347, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, 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)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4347) passed with its title.

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

Eng. House Bill 4402, Relating to the prevention of sexual abuse of children.

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. H. B. 4402) passed with its title.

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

Eng. House Bill 4410, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

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

The nays were: Gaunch—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4410) passed with its title.

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

Eng. House Bill 4422, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

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. H. B. 4422) passed with its title.

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

Eng. House Bill 4433, Declaring certain claims against an agency of the state to be moral obligations of the state.

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, Sybolt, 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. H. B. 4433) passed with its title.

Senator Ferns moved that the bill take effect from passage.

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

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4433) takes effect from passage.

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

Eng. House Bill 4436, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

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

Pending discussion,

(Senator Ferns in the Chair.)

The question being “Shall Engrossed House Bill 4436 pass?”

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

The nays were: None.

Absent: Carmichael (Mr. President)—1.

So, a majority of all the members present and voting having voted in the affirmative, Senator Ferns declared the bill (Eng. H. B. 4436) passed with its title.

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

Eng. Com. Sub. for House Bill 4444, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

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

Pending discussion,

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

The question being “Shall Engrossed Committee Substitute for House Bill 4444 pass?”

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

The nays were: Sypolt—1.

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 H. B. 4444) passed.

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

Eng. Com. Sub. for House Bill 4444—A Bill to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating to clarifying the authority of the State Fire Commission; modifying requirement that State Fire Commission propose certain building energy codes; and making stylistic and technical changes.

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

Eng. Com. Sub. for House Bill 4473, Relating to use of state funds for advertising to promote a public official or government office.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4473 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 H. B. 4473) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4473—A Bill to amend and reenact §6B-2B-1, §6B-2B-2 §6B-2B-3 and §6B-2B-4 of the Code of West Virginia, 1931, as amended, all relating to the use of a public official’s name or likeness on items or in materials produced using public funds; defining terms; providing that a public official’s name or likeness may be included in certain educational materials and press releases produced using public funds; providing that a public official’s name or likeness may appear on an agency’s website or social media for certain purposes; and clarifying that items or materials that are paid for by a public official’s campaign funds are not subject to restrictions on items or materials produced using public funds.

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

Eng. House Bill 4621, Relating to removing reference to certain entities with respect to work.

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. H. B. 4621) passed with its title.

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

Eng. House Bill 4624, Relating to West Virginia coordinate systems.

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

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

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. H. B. 4624) passed.

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

Eng. House Bill 4624—A Bill to amend and reenact §1-1-5 of the Code of West Virginia, 1931, as amended, relating to West Virginia coordinate systems; defining terms; updating plane coordinate values; establishing conversion factor for conversion from meters to United States Survey feet; directing use of certain data published by the National Geodetic Survey; setting requirements for survey establishing coordinates that is relied on by governmental entities or the public; setting requirements for certain maps, plats, reports, descriptions or geospatial products to be relied on by governmental entities or the public; setting legal requirements for describing location of land boundary corners; requiring certification of compliance be filed for certain documents recorded in public records or deed records; setting requirements for certain plats and descriptions of surveys; requiring official geodetic data to be referenced in the State be defined for National Spatial Reference System; requiring compliance with accuracy and reporting requirements for certain maps, plats, reports, descriptions or geospatial products; clarifying that other coordinate systems, data and geodetic reference networks may be used where appropriate; eliminating obsolete language; and updating references.

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

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the sixth order of business, which agenda includes the making of main motions.

On motion of Senator Ferns, the Senate reconsidered its action by which in earlier proceedings today it adopted Senator Ferns' motion that **Engrossed Committee Substitute for Senate Bill 134** (*Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery*) take effect from passage.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Ferns' motion that the bill take effect from passage.

Thereafter, at the request of Senator Ferns, and by unanimous consent, his foregoing motion was withdrawn.

On motion of Senator Ferns, the Senate reconsidered its action by which in earlier proceedings today it passed Engrossed Committee Substitute for Senate Bill 134.

The vote thereon having been reconsidered,

The question again being on the passage of the bill, as amended.

On motion of Senator Ferns, the Senate reconsidered its action by which in earlier proceedings today it adopted Senator Ferns' motion that the Senate concur in the House of Delegates amendment to Engrossed Committee Substitute for Senate Bill 134 (*shown in the Senate Journal of today, page 1542*).

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Ferns' motion that the Senate concur in the House of Delegates amendment to Engrossed Committee Substitute for Senate Bill 134.

At the request of Senator Ferns, and by unanimous consent, his aforesaid motion was withdrawn.

Thereafter, on motion of Senator Ferns, the Senate refused to concur in the House amendment to the bill (Eng. Com. Sub. for S. B. 134) and requested the House of Delegates to recede therefrom.

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

On motion of Senator Ferns, at 11:57 a.m., the Senate recessed for 30 minutes.

The Senate reconvened at 12:43 p.m. today and proceeded to the ninth order of business.

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

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

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

Eng. Com. Sub. for House Bill 2889, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

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

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

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

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

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

ARTICLE 10. VETERINARIANS.**§30-10-12. Requirements to be a certified animal euthanasia technician.**

(a) To be eligible to be a certified animal euthanasia technician a person must:

(1) Apply at least thirty days prior to the date the next written examinations are scheduled, using a form prescribed by the board;

(2) Have a high school diploma or GED;

(3) Pay application and examination fees;

(4) Complete the certified animal euthanasia technician's program established by the board;

(5) Pass the written and practical skills examinations;

(6) Pass the prescribed background check; and

(7) Complete all the other requirements established by the board.

(b) A certified animal euthanasia technician may practice animal euthanasia at a legally operated animal control facility.

(c) A person certified as an animal euthanasia technician by the board prior to July 1, 2010, shall for all purposes be considered certified under this article and may renew pursuant to the provisions of this article.

(d) Notwithstanding the requirements set forth in §30-10-12(a) of this code, a person certified by another state or jurisdiction with qualifications comparable to, equivalent to, or exceeding the standards of the board may be issued a certification under this section upon the submission of a completed application and the appropriate fees as established by the board in legislative rules.

The bill (Eng. Com. Sub. for H. B. 2995), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4238, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

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

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

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

Eng. Com. Sub. for House Bill 2464, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

Eng. Com. Sub. for House Bill 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

Eng. Com. Sub. for House Bill 4023, Relating to the regulation of dialysis technicians.

Eng. House Bill 4025, Permitting reciprocity for licensure as a pharmacy technician.

Eng. Com. Sub. for House Bill 4027, Creating an education permit for allopathic physician resident.

Eng. House Bill 4178, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

Eng. Com. Sub. for House Bill 4197, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation.

Eng. Com. Sub. for House Bill 4279, Relating to adult protective services system.

Eng. Com. Sub. for House Bill 4368, Relating to voluntary assignments of wages by state employees who have been overpaid.

Eng. House Bill 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

Eng. House Bill 4462, Allowing off duty members and officers of the department of public safety to guard private property.

Eng. Com. Sub. for House Bill 4478, Authorizing public schools to distribute excess food to students.

Eng. Com. Sub. for House Bill 4502, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

Eng. Com. Sub. for House Bill 4509, Relating to the establishment of substance abuse treatment facilities.

Eng. Com. Sub. for House Bill 4522, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

And,

Eng. House Bill 4622, Relating to authorizing legislative rules regarding higher education.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 12:47 p.m., the Senate recessed until 30 minutes after adjournment of a Finance committee meeting.

The Senate reconvened at 6:26 p.m. today and, at the request of Senator Ferns, and by unanimous consent, returned to the fourth order of business.

At the request of Senator Plymale, and by unanimous consent, Senator Plymale addressed the Senate regarding an email he received from a public school employee.

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

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3rd day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 360), Clarifying oil and gas permits not be on flat well royalty leases.

(Com. Sub. for S. B. 415), Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery sports wagering activities.

And,

(Com. Sub. for H. B. 3004), Relating to filling vacancies in certain offices.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4145) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Ferns, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, 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.

The bill (Eng. Com. Sub. for H. B. 4145) was read a second time.

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

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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

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

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

(b) The superintendent may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code for the purpose of ensuring consistency, predictability, and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, 2018, members shall receive annual salaries payable at least twice per month as follows:

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~SUPERVISORY AND NONSUPERVISORY RANKS~~

| | |
|-----------------------------------|-----------|
| Cadet During Training | \$34,858 |
| Cadet Trooper After Training..... | \$ 42,122 |
| Trooper Second Year..... | 43,130 |
| Trooper Third Year..... | 43,513 |
| Senior Trooper..... | 43,912 |
| Trooper First Class | 44,518 |
| Corporal..... | 45,124 |
| Sergeant..... | 49,425 |
| First Sergeant..... | 51,576 |
| Second Lieutenant..... | 53,726 |
| First Lieutenant..... | 55,877 |
| Captain..... | 58,028 |
| Major..... | 60,178 |
| Lieutenant Colonel..... | 62,329 |

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~ADMINISTRATION SUPPORT SPECIALIST
CLASSIFICATION~~

| | |
|----------|--------|
| I..... | 43,130 |
| II..... | 43,912 |
| III..... | 44,518 |
| IV..... | 45,124 |
| V..... | 49,425 |
| VI..... | 51,576 |

VII53,726

VIII55,877

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

I43,130

II43,912

III44,518

IV45,124

V49,425

VI51,576

VII53,726

VIII55,877

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

Cadet During Training.....\$ 36,154

Cadet Trooper After Training.....\$ 43,414

Trooper Second Year.....44,426

Trooper Third Year.....44,809

Senior Trooper.....45,208

Trooper First Class.....45,814

Corporal.....46,420

Sergeant.....50,721

| | |
|---------------------------------|---------------|
| <u>First Sergeant</u> | <u>52,872</u> |
| <u>Second Lieutenant</u> | <u>55,022</u> |
| <u>First Lieutenant</u> | <u>57,173</u> |
| <u>Captain</u> | <u>59,324</u> |
| <u>Major</u> | <u>61,474</u> |
| <u>Lieutenant Colonel</u> | <u>63,625</u> |

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST
CLASSIFICATION

| | |
|-------------------|---------------|
| <u>I</u> | <u>44,426</u> |
| <u>II</u> | <u>45,208</u> |
| <u>III</u> | <u>45,814</u> |
| <u>IV</u> | <u>46,420</u> |
| <u>V</u> | <u>50,721</u> |
| <u>VI</u> | <u>52,872</u> |
| <u>VII</u> | <u>55,022</u> |
| <u>VIII</u> | <u>57,173</u> |

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

| | |
|------------------|---------------|
| <u>I</u> | <u>44,426</u> |
| <u>II</u> | <u>45,208</u> |
| <u>III</u> | <u>45,814</u> |
| <u>IV</u> | <u>46,420</u> |

| | |
|------------|--------|
| V | 50,721 |
| VI | 52,872 |
| VII | 55,022 |
| VIII | 57,173 |

~~Beginning July 1, 2019, the annual salaries for members of each of the West Virginia State Police, the Administration Support Specialists, and the Criminalist classifications set forth in the schedules in this subsection shall be increased an additional \$432.~~

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in §15-2-5(e) of this code and supplemental pay as provided in §15-2-5(g) of this code.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in §15-2-5(d) of this code for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015, and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of \$500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

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

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police

are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

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

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the number of hours per month which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed \$200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

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

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in

the West Virginia State Police Cadet Training Program pursuant to §30-29-8 of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed 30 calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) ~~(1)~~ For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

STATE MINIMUM SALARY SCHEDULE

| Years Exp | 4 th Class | 3 rd Class | 2 nd Class | A-B: | A-B: +15 | M.A. M.A. +15 | M.A. M.A. +30 | M.A. M.A. +45 | Doc- torate | |
|--------------|--------------------------|--------------------------|--------------------------|--------|-------------|---------------------|---------------------|---------------------|----------------|--------|
| 0 | 28,725 | 29,414 | 29,680 | 31,123 | 31,884 | 33,651 | 34,412 | 35,173 | 35,934 | 36,969 |
| 1 | 29,053 | 29,742 | 30,008 | 31,641 | 32,402 | 34,170 | 34,931 | 35,691 | 36,452 | 37,487 |
| 2 | 29,382 | 30,070 | 30,336 | 32,160 | 32,921 | 34,688 | 35,449 | 36,210 | 36,971 | 38,006 |
| 3 | 29,710 | 30,398 | 30,664 | 32,679 | 33,439 | 35,207 | 35,968 | 36,728 | 37,489 | 38,524 |
| 4 | 30,282 | 30,970 | 31,236 | 33,441 | 34,202 | 35,970 | 36,731 | 37,491 | 38,252 | 39,287 |
| 5 | 30,610 | 31,298 | 31,564 | 33,960 | 34,721 | 36,488 | 37,249 | 38,010 | 38,771 | 39,806 |
| 6 | 30,938 | 31,626 | 31,892 | 34,478 | 35,239 | 37,007 | 37,768 | 38,528 | 39,289 | 40,324 |
| 7 | 31,266 | 31,955 | 32,220 | 34,997 | 35,758 | 37,525 | 38,286 | 39,047 | 39,808 | 40,843 |
| 8 | 31,594 | 32,283 | 32,549 | 35,515 | 36,276 | 38,044 | 38,805 | 39,565 | 40,326 | 41,361 |
| 9 | 31,922 | 32,611 | 32,877 | 36,034 | 36,795 | 38,562 | 39,323 | 40,084 | 40,845 | 41,880 |
| 10 | 32,251 | 32,939 | 33,205 | 36,554 | 37,314 | 39,082 | 39,843 | 40,604 | 41,364 | 42,399 |
| 11 | 32,579 | 33,267 | 33,533 | 37,072 | 37,833 | 39,601 | 40,361 | 41,122 | 41,883 | 42,918 |
| 12 | 32,907 | 33,595 | 33,861 | 37,591 | 38,351 | 40,119 | 40,880 | 41,641 | 42,401 | 43,436 |
| 13 | 33,235 | 33,923 | 34,189 | 38,109 | 38,870 | 40,638 | 41,398 | 42,159 | 42,920 | 43,955 |
| 14 | 33,563 | 34,251 | 34,517 | 38,628 | 39,388 | 41,156 | 41,917 | 42,678 | 43,438 | 44,473 |
| 15 | 33,891 | 34,579 | 34,845 | 39,146 | 39,907 | 41,675 | 42,435 | 43,196 | 43,957 | 44,992 |
| 16 | 34,219 | 34,907 | 35,173 | 39,665 | 40,425 | 42,193 | 42,954 | 43,715 | 44,475 | 45,510 |
| 17 | 34,547 | 35,236 | 35,501 | 40,183 | 40,944 | 42,712 | 43,473 | 44,233 | 44,994 | 46,029 |
| 18 | 34,875 | 35,564 | 35,830 | 40,702 | 41,463 | 43,230 | 43,991 | 44,752 | 45,513 | 46,548 |
| 19 | 35,203 | 35,892 | 36,158 | 41,220 | 41,981 | 43,749 | 44,510 | 45,270 | 46,031 | 47,066 |
| 20 | 35,531 | 36,220 | 36,486 | 41,739 | 42,500 | 44,267 | 45,028 | 45,789 | 46,550 | 47,585 |
| 21 | 35,860 | 36,548 | 36,814 | 42,257 | 43,018 | 44,786 | 45,547 | 46,307 | 47,068 | 48,103 |
| 22 | 36,188 | 36,876 | 37,142 | 42,776 | 43,537 | 45,304 | 46,065 | 46,826 | 47,587 | 48,622 |
| 23 | 36,516 | 37,204 | 37,470 | 43,295 | 44,055 | 45,823 | 46,584 | 47,344 | 48,105 | 49,140 |
| 24 | 36,844 | 37,532 | 37,798 | 43,813 | 44,574 | 46,342 | 47,102 | 47,863 | 48,624 | 49,659 |
| 25 | 37,172 | 37,860 | 38,126 | 44,332 | 45,092 | 46,860 | 47,621 | 48,382 | 49,142 | 50,177 |

| | | | | | | | | | | |
|----|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 26 | 37,500 | 38,188 | 38,454 | 44,850 | 45,611 | 47,379 | 48,139 | 48,900 | 49,661 | 50,696 |
| 27 | 37,828 | 38,516 | 38,782 | 45,369 | 46,129 | 47,897 | 48,658 | 49,419 | 50,179 | 51,214 |
| 28 | 38,156 | 38,845 | 39,110 | 45,887 | 46,648 | 48,416 | 49,176 | 49,937 | 50,698 | 51,733 |
| 29 | 38,484 | 39,173 | 39,439 | 46,406 | 47,166 | 48,934 | 49,695 | 50,456 | 51,216 | 52,251 |
| 30 | 38,812 | 39,501 | 39,767 | 46,924 | 47,685 | 49,453 | 50,213 | 50,974 | 51,735 | 52,770 |
| 31 | 39,141 | 39,829 | 40,095 | 47,443 | 48,204 | 49,971 | 50,732 | 51,493 | 52,253 | 53,288 |
| 32 | 39,469 | 40,157 | 40,423 | 47,961 | 48,722 | 50,490 | 51,251 | 52,011 | 52,772 | 53,807 |
| 33 | 39,797 | 40,485 | 40,751 | 48,480 | 49,241 | 51,008 | 51,769 | 52,530 | 53,291 | 54,326 |
| 34 | 40,125 | 40,813 | 41,079 | 48,998 | 49,759 | 51,527 | 52,288 | 53,048 | 53,809 | 54,844 |
| 35 | 40,453 | 41,141 | 41,407 | 49,517 | 50,278 | 52,045 | 52,806 | 53,567 | 54,328 | 55,363 |

| Years Exp | <u>4th</u> Class | <u>3rd</u> Class | <u>2nd</u> Class | A.B. A.B. | A.B. + 15 | M.A. M.A. | M.A. + 15 | M.A. + 30 | M.A. + 45 | Doc- torate |
|--------------|--------------------------------|--------------------------------|--------------------------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|
| 0 | <u>29,937</u> | <u>30,626</u> | <u>30,892</u> | <u>32,335</u> | <u>33,096</u> | <u>34,863</u> | <u>35,624</u> | <u>36,385</u> | <u>37,146</u> | <u>38,181</u> |
| 1 | <u>30,265</u> | <u>30,954</u> | <u>31,220</u> | <u>32,853</u> | <u>33,614</u> | <u>35,382</u> | <u>36,143</u> | <u>36,903</u> | <u>37,664</u> | <u>38,699</u> |
| 2 | <u>30,594</u> | <u>31,282</u> | <u>31,548</u> | <u>33,372</u> | <u>34,133</u> | <u>35,900</u> | <u>36,661</u> | <u>37,422</u> | <u>38,183</u> | <u>39,218</u> |
| 3 | <u>30,922</u> | <u>31,610</u> | <u>31,876</u> | <u>33,891</u> | <u>34,651</u> | <u>36,419</u> | <u>37,180</u> | <u>37,940</u> | <u>38,701</u> | <u>39,736</u> |
| 4 | <u>31,494</u> | <u>32,182</u> | <u>32,448</u> | <u>34,653</u> | <u>35,414</u> | <u>37,182</u> | <u>37,943</u> | <u>38,703</u> | <u>39,464</u> | <u>40,499</u> |
| 5 | <u>31,822</u> | <u>32,510</u> | <u>32,776</u> | <u>35,172</u> | <u>35,933</u> | <u>37,700</u> | <u>38,461</u> | <u>39,222</u> | <u>39,983</u> | <u>41,018</u> |
| 6 | <u>32,150</u> | <u>32,838</u> | <u>33,104</u> | <u>35,690</u> | <u>36,451</u> | <u>38,219</u> | <u>38,980</u> | <u>39,740</u> | <u>40,501</u> | <u>41,536</u> |
| 7 | <u>32,478</u> | <u>33,167</u> | <u>33,432</u> | <u>36,209</u> | <u>36,970</u> | <u>38,737</u> | <u>39,498</u> | <u>40,259</u> | <u>41,020</u> | <u>42,055</u> |
| 8 | <u>32,806</u> | <u>33,495</u> | <u>33,761</u> | <u>36,727</u> | <u>37,488</u> | <u>39,256</u> | <u>40,017</u> | <u>40,777</u> | <u>41,538</u> | <u>42,573</u> |
| 9 | <u>33,134</u> | <u>33,823</u> | <u>34,089</u> | <u>37,246</u> | <u>38,007</u> | <u>39,774</u> | <u>40,535</u> | <u>41,296</u> | <u>42,057</u> | <u>43,092</u> |
| 10 | <u>33,463</u> | <u>34,151</u> | <u>34,417</u> | <u>37,766</u> | <u>38,526</u> | <u>40,294</u> | <u>41,055</u> | <u>41,816</u> | <u>42,576</u> | <u>43,611</u> |
| 11 | <u>33,791</u> | <u>34,479</u> | <u>34,745</u> | <u>38,284</u> | <u>39,045</u> | <u>40,813</u> | <u>41,573</u> | <u>42,334</u> | <u>43,095</u> | <u>44,130</u> |
| 12 | <u>34,119</u> | <u>34,807</u> | <u>35,073</u> | <u>38,803</u> | <u>39,563</u> | <u>41,331</u> | <u>42,092</u> | <u>42,853</u> | <u>43,613</u> | <u>44,648</u> |
| 13 | <u>34,447</u> | <u>35,135</u> | <u>35,401</u> | <u>39,321</u> | <u>40,082</u> | <u>41,850</u> | <u>42,610</u> | <u>43,371</u> | <u>44,132</u> | <u>45,167</u> |
| 14 | <u>34,775</u> | <u>35,463</u> | <u>35,729</u> | <u>39,840</u> | <u>40,600</u> | <u>42,368</u> | <u>43,129</u> | <u>43,890</u> | <u>44,650</u> | <u>45,685</u> |
| 15 | <u>35,103</u> | <u>35,791</u> | <u>36,057</u> | <u>40,358</u> | <u>41,119</u> | <u>42,887</u> | <u>43,647</u> | <u>44,408</u> | <u>45,169</u> | <u>46,204</u> |
| 16 | <u>35,431</u> | <u>36,119</u> | <u>36,385</u> | <u>40,877</u> | <u>41,637</u> | <u>43,405</u> | <u>44,166</u> | <u>44,927</u> | <u>45,687</u> | <u>46,722</u> |

| | | | | | | | | | | |
|-----------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|
| <u>17</u> | <u>35.759</u> | <u>36.448</u> | <u>36.713</u> | <u>41.395</u> | <u>42.156</u> | <u>43.924</u> | <u>44.685</u> | <u>45.445</u> | <u>46.206</u> | <u>47.241</u> |
| <u>18</u> | <u>36.087</u> | <u>36.776</u> | <u>37.042</u> | <u>41.914</u> | <u>42.675</u> | <u>44.442</u> | <u>45.203</u> | <u>45.964</u> | <u>46.725</u> | <u>47.760</u> |
| <u>19</u> | <u>36.415</u> | <u>37.104</u> | <u>37.370</u> | <u>42.432</u> | <u>43.193</u> | <u>44.961</u> | <u>45.722</u> | <u>46.482</u> | <u>47.243</u> | <u>48.278</u> |
| <u>20</u> | <u>36.743</u> | <u>37.432</u> | <u>37.698</u> | <u>42.951</u> | <u>43.712</u> | <u>45.479</u> | <u>46.240</u> | <u>47.001</u> | <u>47.762</u> | <u>48.797</u> |
| <u>21</u> | <u>37.072</u> | <u>37.760</u> | <u>38.026</u> | <u>43.469</u> | <u>44.230</u> | <u>45.998</u> | <u>46.759</u> | <u>47.519</u> | <u>48.280</u> | <u>49.315</u> |
| <u>22</u> | <u>37.400</u> | <u>38.088</u> | <u>38.354</u> | <u>43.988</u> | <u>44.749</u> | <u>46.516</u> | <u>47.277</u> | <u>48.038</u> | <u>48.799</u> | <u>49.834</u> |
| <u>23</u> | <u>37.728</u> | <u>38.416</u> | <u>38.682</u> | <u>44.507</u> | <u>45.267</u> | <u>47.035</u> | <u>47.796</u> | <u>48.556</u> | <u>49.317</u> | <u>50.352</u> |
| <u>24</u> | <u>38.056</u> | <u>38.744</u> | <u>39.010</u> | <u>45.025</u> | <u>45.786</u> | <u>47.554</u> | <u>48.314</u> | <u>49.075</u> | <u>49.836</u> | <u>50.871</u> |
| <u>25</u> | <u>38.384</u> | <u>39.072</u> | <u>39.338</u> | <u>45.544</u> | <u>46.304</u> | <u>48.072</u> | <u>48.833</u> | <u>49.594</u> | <u>50.354</u> | <u>51.389</u> |
| <u>26</u> | <u>38.712</u> | <u>39.400</u> | <u>39.666</u> | <u>46.062</u> | <u>46.823</u> | <u>48.591</u> | <u>49.351</u> | <u>50.112</u> | <u>50.873</u> | <u>51.908</u> |
| <u>27</u> | <u>39.040</u> | <u>39.728</u> | <u>39.994</u> | <u>46.581</u> | <u>47.341</u> | <u>49.109</u> | <u>49.870</u> | <u>50.631</u> | <u>51.391</u> | <u>52.426</u> |
| <u>28</u> | <u>39.368</u> | <u>40.057</u> | <u>40.322</u> | <u>47.099</u> | <u>47.860</u> | <u>49.628</u> | <u>50.388</u> | <u>51.149</u> | <u>51.910</u> | <u>52.945</u> |
| <u>29</u> | <u>39.696</u> | <u>40.385</u> | <u>40.651</u> | <u>47.618</u> | <u>48.378</u> | <u>50.146</u> | <u>50.907</u> | <u>51.668</u> | <u>52.428</u> | <u>53.463</u> |
| <u>30</u> | <u>40.024</u> | <u>40.713</u> | <u>40.979</u> | <u>48.136</u> | <u>48.897</u> | <u>50.665</u> | <u>51.425</u> | <u>52.186</u> | <u>52.947</u> | <u>53.982</u> |
| <u>31</u> | <u>40.353</u> | <u>41.041</u> | <u>41.307</u> | <u>48.655</u> | <u>49.416</u> | <u>51.183</u> | <u>51.944</u> | <u>52.705</u> | <u>53.465</u> | <u>54.500</u> |
| <u>32</u> | <u>40.681</u> | <u>41.369</u> | <u>41.635</u> | <u>49.173</u> | <u>49.934</u> | <u>51.702</u> | <u>52.463</u> | <u>53.223</u> | <u>53.984</u> | <u>55.019</u> |
| <u>33</u> | <u>41.009</u> | <u>41.697</u> | <u>41.963</u> | <u>49.692</u> | <u>50.453</u> | <u>52.220</u> | <u>52.981</u> | <u>53.742</u> | <u>54.503</u> | <u>55.538</u> |
| <u>34</u> | <u>41.337</u> | <u>42.025</u> | <u>42.291</u> | <u>50.210</u> | <u>50.971</u> | <u>52.739</u> | <u>53.500</u> | <u>54.260</u> | <u>55.021</u> | <u>56.056</u> |
| <u>35</u> | <u>41.665</u> | <u>42.353</u> | <u>42.619</u> | <u>50.729</u> | <u>51.490</u> | <u>53.257</u> | <u>54.018</u> | <u>54.779</u> | <u>55.540</u> | <u>56.575</u> |

~~(2) For school year 2019–2020, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus \$404; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.~~

~~(3) For school year 2020–2021, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus \$808; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.~~

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(d) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code, each teacher shall be paid an equity supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For “4th Class” at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For “3rd Class” at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For “2nd Class” at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For “A. B.” at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For “A. B. + 15” at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For “M. A.” at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For “M. A. + 15” at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M. A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M. A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For “Doctorate” at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE

| Years Exp. | PAY GRADE | | | | | | | |
|---------------|-----------|-------|-------|-------|-------|-------|-------|-------|
| | A | B | C | D | E | F | G | H |
| 0 | 1,704 | 1,725 | 1,767 | 1,820 | 1,873 | 1,936 | 1,968 | 2,041 |
| 1 | 1,736 | 1,758 | 1,799 | 1,852 | 1,906 | 1,969 | 2,000 | 2,074 |

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 2 | 1,769 | 1,790 | 1,832 | 1,885 | 1,938 | 2,001 | 2,033 | 2,106 |
| 3 | 1,801 | 1,823 | 1,865 | 1,918 | 1,971 | 2,034 | 2,066 | 2,139 |
| 4 | 1,834 | 1,856 | 1,897 | 1,950 | 2,003 | 2,067 | 2,098 | 2,173 |
| 5 | 1,867 | 1,888 | 1,930 | 1,983 | 2,036 | 2,099 | 2,131 | 2,205 |
| 6 | 1,899 | 1,921 | 1,964 | 2,016 | 2,069 | 2,132 | 2,164 | 2,238 |
| 7 | 1,933 | 1,953 | 1,996 | 2,048 | 2,101 | 2,165 | 2,196 | 2,271 |
| 8 | 1,966 | 1,986 | 2,029 | 2,081 | 2,134 | 2,197 | 2,229 | 2,303 |
| 9 | 1,998 | 2,019 | 2,062 | 2,115 | 2,167 | 2,230 | 2,261 | 2,336 |
| 10 | 2,031 | 2,052 | 2,094 | 2,147 | 2,199 | 2,264 | 2,295 | 2,369 |
| 11 | 2,064 | 2,085 | 2,127 | 2,180 | 2,232 | 2,296 | 2,328 | 2,401 |
| 12 | 2,096 | 2,118 | 2,159 | 2,213 | 2,266 | 2,329 | 2,360 | 2,434 |
| 13 | 2,129 | 2,150 | 2,192 | 2,245 | 2,298 | 2,361 | 2,393 | 2,467 |
| 14 | 2,162 | 2,183 | 2,225 | 2,278 | 2,331 | 2,394 | 2,426 | 2,499 |
| 15 | 2,194 | 2,216 | 2,257 | 2,310 | 2,363 | 2,427 | 2,458 | 2,532 |
| 16 | 2,227 | 2,248 | 2,290 | 2,343 | 2,396 | 2,459 | 2,491 | 2,565 |
| 17 | 2,259 | 2,281 | 2,324 | 2,376 | 2,429 | 2,492 | 2,524 | 2,598 |
| 18 | 2,292 | 2,314 | 2,356 | 2,408 | 2,461 | 2,525 | 2,556 | 2,631 |
| 19 | 2,326 | 2,346 | 2,389 | 2,441 | 2,494 | 2,557 | 2,589 | 2,663 |
| 20 | 2,358 | 2,379 | 2,422 | 2,475 | 2,527 | 2,590 | 2,622 | 2,697 |
| 21 | 2,391 | 2,411 | 2,454 | 2,507 | 2,559 | 2,623 | 2,654 | 2,731 |
| 22 | 2,424 | 2,445 | 2,487 | 2,540 | 2,592 | 2,656 | 2,688 | 2,763 |
| 23 | 2,456 | 2,478 | 2,520 | 2,573 | 2,626 | 2,690 | 2,722 | 2,797 |
| 24 | 2,489 | 2,510 | 2,552 | 2,605 | 2,658 | 2,724 | 2,755 | 2,831 |
| 25 | 2,522 | 2,543 | 2,585 | 2,638 | 2,692 | 2,756 | 2,789 | 2,863 |
| 26 | 2,554 | 2,576 | 2,617 | 2,672 | 2,726 | 2,790 | 2,821 | 2,897 |
| 27 | 2,587 | 2,608 | 2,650 | 2,704 | 2,758 | 2,822 | 2,855 | 2,930 |
| 28 | 2,620 | 2,641 | 2,684 | 2,738 | 2,792 | 2,856 | 2,889 | 2,964 |
| 29 | 2,652 | 2,675 | 2,717 | 2,770 | 2,825 | 2,890 | 2,921 | 2,998 |
| 30 | 2,686 | 2,707 | 2,751 | 2,804 | 2,858 | 2,922 | 2,955 | 3,031 |

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 31 | 2,719 | 2,741 | 2,785 | 2,838 | 2,892 | 2,956 | 2,989 | 3,064 |
| 32 | 2,753 | 2,774 | 2,817 | 2,871 | 2,924 | 2,990 | 3,021 | 3,098 |
| 33 | 2,787 | 2,807 | 2,851 | 2,905 | 2,958 | 3,022 | 3,055 | 3,131 |
| 34 | 2,819 | 2,841 | 2,885 | 2,939 | 2,992 | 3,056 | 3,089 | 3,164 |
| 35 | 2,853 | 2,875 | 2,917 | 2,971 | 3,024 | 3,090 | 3,122 | 3,198 |
| 36 | 2,887 | 2,908 | 2,951 | 3,005 | 3,059 | 3,123 | 3,156 | 3,230 |
| 37 | 2,919 | 2,942 | 2,985 | 3,039 | 3,093 | 3,157 | 3,189 | 3,264 |
| 38 | 2,953 | 2,974 | 3,017 | 3,071 | 3,125 | 3,190 | 3,222 | 3,298 |
| 39 | 2,987 | 3,008 | 3,051 | 3,105 | 3,159 | 3,223 | 3,256 | 3,330 |
| 40 | 3,019 | 3,042 | 3,084 | 3,138 | 3,193 | 3,257 | 3,289 | 3,364 |

Years
Exp.

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> |
|----|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 0 | <u>1,770</u> | <u>1,791</u> | <u>1,833</u> | <u>1,886</u> | <u>1,939</u> | <u>2,002</u> | <u>2,034</u> | <u>2,107</u> |
| 1 | <u>1,802</u> | <u>1,824</u> | <u>1,865</u> | <u>1,918</u> | <u>1,972</u> | <u>2,035</u> | <u>2,066</u> | <u>2,140</u> |
| 2 | <u>1,835</u> | <u>1,856</u> | <u>1,898</u> | <u>1,951</u> | <u>2,004</u> | <u>2,067</u> | <u>2,099</u> | <u>2,172</u> |
| 3 | <u>1,867</u> | <u>1,889</u> | <u>1,931</u> | <u>1,984</u> | <u>2,037</u> | <u>2,100</u> | <u>2,132</u> | <u>2,205</u> |
| 4 | <u>1,900</u> | <u>1,922</u> | <u>1,963</u> | <u>2,016</u> | <u>2,069</u> | <u>2,133</u> | <u>2,164</u> | <u>2,239</u> |
| 5 | <u>1,933</u> | <u>1,954</u> | <u>1,996</u> | <u>2,049</u> | <u>2,102</u> | <u>2,165</u> | <u>2,197</u> | <u>2,271</u> |
| 6 | <u>1,965</u> | <u>1,987</u> | <u>2,030</u> | <u>2,082</u> | <u>2,135</u> | <u>2,198</u> | <u>2,230</u> | <u>2,304</u> |
| 7 | <u>1,999</u> | <u>2,019</u> | <u>2,062</u> | <u>2,114</u> | <u>2,167</u> | <u>2,231</u> | <u>2,262</u> | <u>2,337</u> |
| 8 | <u>2,032</u> | <u>2,052</u> | <u>2,095</u> | <u>2,147</u> | <u>2,200</u> | <u>2,263</u> | <u>2,295</u> | <u>2,369</u> |
| 9 | <u>2,064</u> | <u>2,085</u> | <u>2,128</u> | <u>2,181</u> | <u>2,233</u> | <u>2,296</u> | <u>2,327</u> | <u>2,402</u> |
| 10 | <u>2,097</u> | <u>2,118</u> | <u>2,160</u> | <u>2,213</u> | <u>2,265</u> | <u>2,330</u> | <u>2,361</u> | <u>2,435</u> |
| 11 | <u>2,130</u> | <u>2,151</u> | <u>2,193</u> | <u>2,246</u> | <u>2,298</u> | <u>2,362</u> | <u>2,394</u> | <u>2,467</u> |
| 12 | <u>2,162</u> | <u>2,184</u> | <u>2,225</u> | <u>2,279</u> | <u>2,332</u> | <u>2,395</u> | <u>2,426</u> | <u>2,500</u> |
| 13 | <u>2,195</u> | <u>2,216</u> | <u>2,258</u> | <u>2,311</u> | <u>2,364</u> | <u>2,427</u> | <u>2,459</u> | <u>2,533</u> |
| 14 | <u>2,228</u> | <u>2,249</u> | <u>2,291</u> | <u>2,344</u> | <u>2,397</u> | <u>2,460</u> | <u>2,492</u> | <u>2,565</u> |
| 15 | <u>2,260</u> | <u>2,282</u> | <u>2,323</u> | <u>2,376</u> | <u>2,429</u> | <u>2,493</u> | <u>2,524</u> | <u>2,598</u> |

| | | | | | | | | |
|-----------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| <u>16</u> | <u>2,293</u> | <u>2,314</u> | <u>2,356</u> | <u>2,409</u> | <u>2,462</u> | <u>2,525</u> | <u>2,557</u> | <u>2,631</u> |
| <u>17</u> | <u>2,325</u> | <u>2,347</u> | <u>2,390</u> | <u>2,442</u> | <u>2,495</u> | <u>2,558</u> | <u>2,590</u> | <u>2,664</u> |
| <u>18</u> | <u>2,358</u> | <u>2,380</u> | <u>2,422</u> | <u>2,474</u> | <u>2,527</u> | <u>2,591</u> | <u>2,622</u> | <u>2,697</u> |
| <u>19</u> | <u>2,392</u> | <u>2,412</u> | <u>2,455</u> | <u>2,507</u> | <u>2,560</u> | <u>2,623</u> | <u>2,655</u> | <u>2,729</u> |
| <u>20</u> | <u>2,424</u> | <u>2,445</u> | <u>2,488</u> | <u>2,541</u> | <u>2,593</u> | <u>2,656</u> | <u>2,688</u> | <u>2,763</u> |
| <u>21</u> | <u>2,457</u> | <u>2,477</u> | <u>2,520</u> | <u>2,573</u> | <u>2,625</u> | <u>2,689</u> | <u>2,720</u> | <u>2,797</u> |
| <u>22</u> | <u>2,490</u> | <u>2,511</u> | <u>2,553</u> | <u>2,606</u> | <u>2,658</u> | <u>2,722</u> | <u>2,754</u> | <u>2,829</u> |
| <u>23</u> | <u>2,522</u> | <u>2,544</u> | <u>2,586</u> | <u>2,639</u> | <u>2,692</u> | <u>2,756</u> | <u>2,788</u> | <u>2,863</u> |
| <u>24</u> | <u>2,555</u> | <u>2,576</u> | <u>2,618</u> | <u>2,671</u> | <u>2,724</u> | <u>2,790</u> | <u>2,821</u> | <u>2,897</u> |
| <u>25</u> | <u>2,588</u> | <u>2,609</u> | <u>2,651</u> | <u>2,704</u> | <u>2,758</u> | <u>2,822</u> | <u>2,855</u> | <u>2,929</u> |
| <u>26</u> | <u>2,620</u> | <u>2,642</u> | <u>2,683</u> | <u>2,738</u> | <u>2,792</u> | <u>2,856</u> | <u>2,887</u> | <u>2,963</u> |
| <u>27</u> | <u>2,653</u> | <u>2,674</u> | <u>2,716</u> | <u>2,770</u> | <u>2,824</u> | <u>2,888</u> | <u>2,921</u> | <u>2,996</u> |
| <u>28</u> | <u>2,686</u> | <u>2,707</u> | <u>2,750</u> | <u>2,804</u> | <u>2,858</u> | <u>2,922</u> | <u>2,955</u> | <u>3,030</u> |
| <u>29</u> | <u>2,718</u> | <u>2,741</u> | <u>2,783</u> | <u>2,836</u> | <u>2,891</u> | <u>2,956</u> | <u>2,987</u> | <u>3,064</u> |
| <u>30</u> | <u>2,752</u> | <u>2,773</u> | <u>2,817</u> | <u>2,870</u> | <u>2,924</u> | <u>2,988</u> | <u>3,021</u> | <u>3,097</u> |
| <u>31</u> | <u>2,785</u> | <u>2,807</u> | <u>2,851</u> | <u>2,904</u> | <u>2,958</u> | <u>3,022</u> | <u>3,055</u> | <u>3,130</u> |
| <u>32</u> | <u>2,819</u> | <u>2,840</u> | <u>2,883</u> | <u>2,937</u> | <u>2,990</u> | <u>3,056</u> | <u>3,087</u> | <u>3,164</u> |
| <u>33</u> | <u>2,853</u> | <u>2,873</u> | <u>2,917</u> | <u>2,971</u> | <u>3,024</u> | <u>3,088</u> | <u>3,121</u> | <u>3,197</u> |
| <u>34</u> | <u>2,885</u> | <u>2,907</u> | <u>2,951</u> | <u>3,005</u> | <u>3,058</u> | <u>3,122</u> | <u>3,155</u> | <u>3,230</u> |
| <u>35</u> | <u>2,919</u> | <u>2,941</u> | <u>2,983</u> | <u>3,037</u> | <u>3,090</u> | <u>3,156</u> | <u>3,188</u> | <u>3,264</u> |
| <u>36</u> | <u>2,953</u> | <u>2,974</u> | <u>3,017</u> | <u>3,071</u> | <u>3,125</u> | <u>3,189</u> | <u>3,222</u> | <u>3,296</u> |
| <u>37</u> | <u>2,985</u> | <u>3,008</u> | <u>3,051</u> | <u>3,105</u> | <u>3,159</u> | <u>3,223</u> | <u>3,255</u> | <u>3,330</u> |
| <u>38</u> | <u>3,019</u> | <u>3,040</u> | <u>3,083</u> | <u>3,137</u> | <u>3,191</u> | <u>3,256</u> | <u>3,288</u> | <u>3,364</u> |
| <u>39</u> | <u>3,053</u> | <u>3,074</u> | <u>3,117</u> | <u>3,171</u> | <u>3,225</u> | <u>3,289</u> | <u>3,322</u> | <u>3,396</u> |
| <u>40</u> | <u>3,085</u> | <u>3,108</u> | <u>3,150</u> | <u>3,204</u> | <u>3,259</u> | <u>3,323</u> | <u>3,355</u> | <u>3,430</u> |

~~(2) For school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade, plus \$22; and the minimum monthly pay for~~

~~each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade, plus \$11.~~

(3)(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

| CLASS TITLE | PAY GRADE |
|-----------------------------------|-----------|
| Accountant I..... | D |
| Accountant II | E |
| Accountant III | F |
| Accounts Payable Supervisor | G |
| Aide I | A |
| Aide II | B |
| Aide III | C |
| Aide IV | D |
| Audiovisual Technician | C |
| Auditor | G |
| Autism Mentor | F |
| Braille Specialist | E |
| Bus Operator | D |
| Buyer | F |
| Cabinetmaker | G |
| Cafeteria Manager | D |
| Carpenter I | E |
| Carpenter II | F |
| Chief Mechanic | G |
| Clerk I | B |
| Clerk II | C |
| Computer Operator | E |
| Cook I | A |
| Cook II | B |
| Cook III | C |
| Crew Leader | F |
| Custodian I | A |

| | |
|---|---|
| Custodian II | B |
| Custodian III | C |
| Custodian IV | D |
| Director or Coordinator of Services | H |
| Draftsman | D |
| Early Childhood Classroom Assistant Teacher I | E |
| Early Childhood Classroom Assistant Teacher II | E |
| Early Childhood Classroom Assistant Teacher III | F |
| Educational Sign Language Interpreter I | F |
| Educational Sign Language Interpreter II | G |
| Electrician I | F |
| Electrician II | G |
| Electronic Technician I | F |
| Electronic Technician II | G |
| Executive Secretary | G |
| Food Services Supervisor | G |
| Foreman | G |
| General Maintenance | C |
| Glazier | D |
| Graphic Artist | D |
| Groundsman | B |
| Handyman | B |
| Heating and Air Conditioning Mechanic I | E |
| Heating and Air Conditioning Mechanic II | G |
| Heavy Equipment Operator | E |
| Inventory Supervisor | D |
| Key Punch Operator | B |
| Licensed Practical Nurse | F |
| Locksmith | G |
| Lubrication Man | C |
| Machinist | F |
| Mail Clerk | D |
| Maintenance Clerk | C |
| Mason | G |
| Mechanic | F |
| Mechanic Assistant | E |
| Office Equipment Repairman I | F |
| Office Equipment Repairman II | G |
| Painter | E |

| | |
|---|---|
| Paraprofessional | F |
| Payroll Supervisor | G |
| Plumber I | E |
| Plumber II | G |
| Printing Operator | B |
| Printing Supervisor | D |
| Programmer | H |
| Roofing/Sheet Metal Mechanic | F |
| Sanitation Plant Operator | G |
| School Bus Supervisor | E |
| Secretary I | D |
| Secretary II | E |
| Secretary III | F |
| Sign Support Specialist | E |
| Supervisor of Maintenance | H |
| Supervisor of Transportation | H |
| Switchboard Operator-Receptionist | D |
| Truck Driver | D |
| Warehouse Clerk | C |
| Watchman | B |
| Welder | F |
| WVEIS Data Entry and Administrative Clerk | B |

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) To meet the objective of salary equity among the counties, each service person is paid an equity supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional

hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however*, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of

the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

Following extended discussion,

Senator Beach arose to a point of order that the discussion had now digressed from the merits of the amendment.

Which point of order, the President ruled well taken.

Following discussion,

The question being on the adoption of the Finance committee amendment to the bill, and on this question, Senator Prezioso demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—19.

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

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the Finance committee amendment to the bill adopted.

The bill, as amended, was ordered to third reading.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4145) was then read a third time and put upon its passage.

Pending extended discussion,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for House Bill 4145.

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—21.

The nays were: Baldwin, Beach, Facemire, Jeffries, Mann, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

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 H. B. 4145) passed with its title.

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

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

Mann, Maroney, Maynard, Palumbo, Plymale, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—25.

The nays were: Baldwin, Beach, Facemire, Ojeda, Prezioso, Romano, Stollings, Unger, and Woelfel—9.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4145) takes effect July 1, 2018.

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

On motion of Senator Ferns, at 7:16 p.m., the Senate recessed for 15 minutes.

The Senate reconvened at 8:24 p.m. tonight and again proceeded to the sixth order of business, which agenda includes the making of main motions.

On motion of Senator Ferns, the Senate requested the return from the House of Delegates of

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Passed by the Senate in earlier proceedings tonight,

The bill now being in the possession of the Senate,

Senator Ferns moved that the Senate reconsider its action by which in earlier proceedings tonight it made the bill (Eng. Com. Sub. for H. B. 4145) effective July 1, 2018.

Senator Plymale objecting.

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

The question being on the adoption of Senator Ferns' aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Ferns' motion that the bill take effect July 1, 2018.

Senator Ferns requested unanimous consent that his foregoing motion be withdrawn.

Senator Plymale objecting.

Senator Ferns then moved that his foregoing motion be withdrawn.

The question being on the adoption of Senator Ferns' aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

Senator Ferns moved that the Senate reconsider its action by which in earlier proceedings tonight it passed Engrossed Committee Substitute for House Bill 4145.

Senator Unger objecting.

The question being on the adoption of Senator Ferns' aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

The vote thereon having been reconsidered,

Senator Ferns then moved that the Senate reconsider its action by which in earlier proceedings tonight it adopted the Finance committee amendment to the bill.

Senator Plymale objecting.

The question being on the adoption of Senator Ferns' aforestated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

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

Senator Unger arose to a point of order stating Rule 42 of the Rules of the Senate, which states in part, "No motion for reconsideration of the vote on any question, which has gone out of the possession of the Senate, shall be in order unless subsequently recalled by vote of the Senate and in possession of the Clerk. When a motion to reconsider has been adopted, its effect shall be to place before the Senate the original question in the exact position it occupied before it was voted upon." and, therefore, the original position of the bill was on third reading.

Which point of order, the President ruled not well taken, stating the Senate has already reconsidered the effective date, passage, and the adoption of the Finance committee amendment to Engrossed Committee Substitute for House Bill 4145, therefore, it is now on second reading.

Senator Unger arose to a point of order stating Rule 24 of the Rules of the Senate, which states in part, "A bill or joint resolution shall be amended only on second reading" which would

require a two-thirds vote to change the Rules of the Senate to permit amending on third reading and the result of the roll call vote to reconsider did not reflect that requirement.

Which point of order, the President ruled not well taken, stating the bill is on second reading.

Senator Unger then appealed the ruling of the Chair, and on this question, Senator Unger demanded the yeas and nays.

Senator Ferns moved the previous question, which motion prevailed.

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

The question being “Shall the Chair be sustained?”

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the Chair sustained.

Following points of inquiry to the President, with resultant responses thereto,

The vote thereon having been reconsidered,

The question again being on the adoption of the Finance committee amendment to the bill.

On motion of Senator Boso, the following amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4145) was reported by the Clerk:

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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

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

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

(b) The superintendent may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code for the purpose of ensuring consistency, predictability, and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, 2018, members shall receive annual salaries payable at least twice per month as follows:

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~SUPERVISORY AND NONSUPERVISORY RANKS~~

| | |
|------------------------------------|-----------|
| Cadet During Training | \$34,858 |
| Cadet Trooper After Training | \$ 42,122 |
| Trooper Second Year | 43,130 |
| Trooper Third Year | 43,513 |
| Senior Trooper | 43,912 |
| Trooper First Class | 44,518 |
| Corporal | 45,124 |
| Sergeant | 49,425 |
| First Sergeant | 51,576 |
| Second Lieutenant | 53,726 |
| First Lieutenant | 55,877 |
| Captain | 58,028 |
| Major | 60,178 |
| Lieutenant Colonel | 62,329 |

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~ADMINISTRATION SUPPORT SPECIALIST
CLASSIFICATION~~

| | |
|-----------|--------|
| I | 43,130 |
| II | 43,912 |
| III | 44,518 |
| IV | 45,124 |

| | |
|------------|--------|
| V | 49,425 |
| VI | 51,576 |
| VII | 53,726 |
| VIII | 55,877 |

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

| | |
|------------|--------|
| I | 43,130 |
| II | 43,912 |
| III | 44,518 |
| IV | 45,124 |
| V | 49,425 |
| VI | 51,576 |
| VII | 53,726 |
| VIII | 55,877 |

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

| | |
|---|------------------|
| <u>Cadet During Training</u> | <u>\$ 35,722</u> |
| <u>Cadet Trooper After Training</u> | <u>42,982</u> |
| <u>Trooper Second Year</u> | <u>43,994</u> |
| <u>Trooper Third Year</u> | <u>44,377</u> |
| <u>Senior Trooper</u> | <u>44,776</u> |
| <u>Trooper First Class</u> | <u>45,382</u> |

| | |
|---------------------------------|---------------|
| <u>Corporal</u> | <u>45,988</u> |
| <u>Sergeant</u> | <u>50,289</u> |
| <u>First Sergeant</u> | <u>52,440</u> |
| <u>Second Lieutenant</u> | <u>54,590</u> |
| <u>First Lieutenant</u> | <u>56,741</u> |
| <u>Captain</u> | <u>58,892</u> |
| <u>Major</u> | <u>61,042</u> |
| <u>Lieutenant Colonel</u> | <u>63,193</u> |

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST
CLASSIFICATION

| | |
|-------------------|---------------|
| <u>I</u> | <u>43,994</u> |
| <u>II</u> | <u>44,776</u> |
| <u>III</u> | <u>45,382</u> |
| <u>IV</u> | <u>45,988</u> |
| <u>V</u> | <u>50,289</u> |
| <u>VI</u> | <u>52,440</u> |
| <u>VII</u> | <u>54,590</u> |
| <u>VIII</u> | <u>56,741</u> |

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

| | |
|-----------------|---------------|
| <u>I</u> | <u>43,994</u> |
| <u>II</u> | <u>44,776</u> |

| | |
|-------------------|---------------|
| <u>III</u> | <u>45,382</u> |
| <u>IV</u> | <u>45,988</u> |
| <u>V</u> | <u>50,289</u> |
| <u>VI</u> | <u>52,440</u> |
| <u>VII</u> | <u>54,590</u> |
| <u>VIII</u> | <u>56,741</u> |

~~Beginning July 1, 2019, the annual salaries for members of each of the West Virginia State Police, the Administration Support Specialists, and the Criminalist classifications set forth in the schedules in this subsection shall be increased an additional \$432.~~

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in §15-2-5(e) of this code and supplemental pay as provided in §15-2-5(g) of this code.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in §15-2-5(d) of this code for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015, and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of \$500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service

and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

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

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

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the number of hours per month which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed \$200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

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

the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in the West Virginia State Police Cadet Training Program pursuant to §30-29-8 of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed 30 calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-2. State minimum salaries for teachers.

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) (4) For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section; specific additional amounts prescribed in this section or article; and any

county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

STATE MINIMUM SALARY SCHEDULE

| Years Exp | 4 th Class | 3 rd Class | 2 nd Class | A.B. A.B. | A.B. +15 | M.A. M.A. | M.A. +15 | M.A. +30 | M.A. +45 | Doc- torate |
|--------------|--------------------------|--------------------------|--------------------------|--------------|-------------|--------------|-------------|-------------|-------------|----------------|
| 0 | 28,725 | 29,414 | 29,680 | 31,123 | 31,884 | 33,651 | 34,412 | 35,173 | 35,934 | 36,969 |
| 1 | 29,053 | 29,742 | 30,008 | 31,641 | 32,402 | 34,170 | 34,931 | 35,691 | 36,452 | 37,487 |
| 2 | 29,382 | 30,070 | 30,336 | 32,160 | 32,921 | 34,688 | 35,449 | 36,210 | 36,971 | 38,006 |
| 3 | 29,710 | 30,398 | 30,664 | 32,679 | 33,439 | 35,207 | 35,968 | 36,728 | 37,489 | 38,524 |
| 4 | 30,282 | 30,970 | 31,236 | 33,441 | 34,202 | 35,970 | 36,731 | 37,491 | 38,252 | 39,287 |
| 5 | 30,610 | 31,298 | 31,564 | 33,960 | 34,721 | 36,488 | 37,249 | 38,010 | 38,771 | 39,806 |
| 6 | 30,938 | 31,626 | 31,892 | 34,478 | 35,239 | 37,007 | 37,768 | 38,528 | 39,289 | 40,324 |
| 7 | 31,266 | 31,955 | 32,220 | 34,997 | 35,758 | 37,525 | 38,286 | 39,047 | 39,808 | 40,843 |
| 8 | 31,594 | 32,283 | 32,549 | 35,515 | 36,276 | 38,044 | 38,805 | 39,565 | 40,326 | 41,361 |
| 9 | 31,922 | 32,611 | 32,877 | 36,034 | 36,795 | 38,562 | 39,323 | 40,084 | 40,845 | 41,880 |
| 10 | 32,251 | 32,939 | 33,205 | 36,554 | 37,314 | 39,082 | 39,843 | 40,604 | 41,364 | 42,399 |
| 11 | 32,579 | 33,267 | 33,533 | 37,072 | 37,833 | 39,601 | 40,361 | 41,122 | 41,883 | 42,918 |
| 12 | 32,907 | 33,595 | 33,861 | 37,591 | 38,351 | 40,119 | 40,880 | 41,641 | 42,401 | 43,436 |
| 13 | 33,235 | 33,923 | 34,189 | 38,109 | 38,870 | 40,638 | 41,398 | 42,159 | 42,920 | 43,955 |
| 14 | 33,563 | 34,251 | 34,517 | 38,628 | 39,388 | 41,156 | 41,917 | 42,678 | 43,438 | 44,473 |
| 15 | 33,891 | 34,579 | 34,845 | 39,146 | 39,907 | 41,675 | 42,435 | 43,196 | 43,957 | 44,992 |
| 16 | 34,219 | 34,907 | 35,173 | 39,665 | 40,425 | 42,193 | 42,954 | 43,715 | 44,475 | 45,510 |
| 17 | 34,547 | 35,236 | 35,501 | 40,183 | 40,944 | 42,712 | 43,473 | 44,233 | 44,994 | 46,029 |
| 18 | 34,875 | 35,564 | 35,830 | 40,702 | 41,463 | 43,230 | 43,991 | 44,752 | 45,513 | 46,548 |
| 19 | 35,203 | 35,892 | 36,158 | 41,220 | 41,981 | 43,749 | 44,510 | 45,270 | 46,031 | 47,066 |
| 20 | 35,531 | 36,220 | 36,486 | 41,739 | 42,500 | 44,267 | 45,028 | 45,789 | 46,550 | 47,585 |
| 21 | 35,860 | 36,548 | 36,814 | 42,257 | 43,018 | 44,786 | 45,547 | 46,307 | 47,068 | 48,103 |
| 22 | 36,188 | 36,876 | 37,142 | 42,776 | 43,537 | 45,304 | 46,065 | 46,826 | 47,587 | 48,622 |
| 23 | 36,516 | 37,204 | 37,470 | 43,295 | 44,055 | 45,823 | 46,584 | 47,344 | 48,105 | 49,140 |

| | | | | | | | | | | |
|----|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 24 | 36,844 | 37,532 | 37,798 | 43,813 | 44,574 | 46,342 | 47,102 | 47,863 | 48,624 | 49,659 |
| 25 | 37,172 | 37,860 | 38,126 | 44,332 | 45,092 | 46,860 | 47,621 | 48,382 | 49,142 | 50,177 |
| 26 | 37,500 | 38,188 | 38,454 | 44,850 | 45,611 | 47,379 | 48,139 | 48,900 | 49,661 | 50,696 |
| 27 | 37,828 | 38,516 | 38,782 | 45,369 | 46,129 | 47,897 | 48,658 | 49,419 | 50,179 | 51,214 |
| 28 | 38,156 | 38,845 | 39,110 | 45,887 | 46,648 | 48,416 | 49,176 | 49,937 | 50,698 | 51,733 |
| 29 | 38,484 | 39,173 | 39,439 | 46,406 | 47,166 | 48,934 | 49,695 | 50,456 | 51,216 | 52,251 |
| 30 | 38,812 | 39,501 | 39,767 | 46,924 | 47,685 | 49,453 | 50,213 | 50,974 | 51,735 | 52,770 |
| 31 | 39,141 | 39,829 | 40,095 | 47,443 | 48,204 | 49,971 | 50,732 | 51,493 | 52,253 | 53,288 |
| 32 | 39,469 | 40,157 | 40,423 | 47,961 | 48,722 | 50,490 | 51,251 | 52,011 | 52,772 | 53,807 |
| 33 | 39,797 | 40,485 | 40,751 | 48,480 | 49,241 | 51,008 | 51,769 | 52,530 | 53,291 | 54,326 |
| 34 | 40,125 | 40,813 | 41,079 | 48,998 | 49,759 | 51,527 | 52,288 | 53,048 | 53,809 | 54,844 |
| 35 | 40,453 | 41,141 | 41,407 | 49,517 | 50,278 | 52,045 | 52,806 | 53,567 | 54,328 | 55,363 |

| <u>Years</u> <u>Exp</u> | <u>4th</u> <u>Class</u> | <u>3rd</u> <u>Class</u> | <u>2nd</u> <u>Class</u> | <u>A.B.</u> <u>A.B.</u> | <u>A.B.</u> <u>+ 15</u> | <u>M.A.</u> <u>M.A.</u> | <u>M.A.</u> <u>+ 15</u> | <u>M.A.</u> <u>+ 30</u> | <u>M.A.</u> <u>+ 45</u> | <u>Doc-</u> <u>torate</u> |
|----------------------------|---------------------------------------|---------------------------------------|---------------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|------------------------------|
| 0 | 29,533 | 30,222 | 30,488 | 31,931 | 32,692 | 34,459 | 35,220 | 35,981 | 36,742 | 37,777 |
| 1 | 29,861 | 30,550 | 30,816 | 32,449 | 33,210 | 34,978 | 35,739 | 36,499 | 37,260 | 38,295 |
| 2 | 30,190 | 30,878 | 31,144 | 32,968 | 33,729 | 35,496 | 36,257 | 37,018 | 37,779 | 38,814 |
| 3 | 30,518 | 31,206 | 31,472 | 33,487 | 34,247 | 36,015 | 36,776 | 37,536 | 38,297 | 39,332 |
| 4 | 31,090 | 31,778 | 32,044 | 34,249 | 35,010 | 36,778 | 37,539 | 38,299 | 39,060 | 40,095 |
| 5 | 31,418 | 32,106 | 32,372 | 34,768 | 35,529 | 37,296 | 38,057 | 38,818 | 39,579 | 40,614 |
| 6 | 31,746 | 32,434 | 32,700 | 35,286 | 36,047 | 37,815 | 38,576 | 39,336 | 40,097 | 41,132 |
| 7 | 32,074 | 32,763 | 33,028 | 35,805 | 36,566 | 38,333 | 39,094 | 39,855 | 40,616 | 41,651 |
| 8 | 32,402 | 33,091 | 33,357 | 36,323 | 37,084 | 38,852 | 39,613 | 40,373 | 41,134 | 42,169 |
| 9 | 32,730 | 33,419 | 33,685 | 36,842 | 37,603 | 39,370 | 40,131 | 40,892 | 41,653 | 42,688 |
| 10 | 33,059 | 33,747 | 34,013 | 37,362 | 38,122 | 39,890 | 40,651 | 41,412 | 42,172 | 43,207 |
| 11 | 33,387 | 34,075 | 34,341 | 37,880 | 38,641 | 40,409 | 41,169 | 41,930 | 42,691 | 43,726 |
| 12 | 33,715 | 34,403 | 34,669 | 38,399 | 39,159 | 40,927 | 41,688 | 42,449 | 43,209 | 44,244 |
| 13 | 34,043 | 34,731 | 34,997 | 38,917 | 39,678 | 41,446 | 42,206 | 42,967 | 43,728 | 44,763 |
| 14 | 34,371 | 35,059 | 35,325 | 39,436 | 40,196 | 41,964 | 42,725 | 43,486 | 44,246 | 45,281 |

| | | | | | | | | | | |
|----|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 15 | 34,699 | 35,387 | 35,653 | 39,954 | 40,715 | 42,483 | 43,243 | 44,004 | 44,765 | 45,800 |
| 16 | 35,027 | 35,715 | 35,981 | 40,473 | 41,233 | 43,001 | 43,762 | 44,523 | 45,283 | 46,318 |
| 17 | 35,355 | 36,044 | 36,309 | 40,991 | 41,752 | 43,520 | 44,281 | 45,041 | 45,802 | 46,837 |
| 18 | 35,683 | 36,372 | 36,638 | 41,510 | 42,271 | 44,038 | 44,799 | 45,560 | 46,321 | 47,356 |
| 19 | 36,011 | 36,700 | 36,966 | 42,028 | 42,789 | 44,557 | 45,318 | 46,078 | 46,839 | 47,874 |
| 20 | 36,339 | 37,028 | 37,294 | 42,547 | 43,308 | 45,075 | 45,836 | 46,597 | 47,358 | 48,393 |
| 21 | 36,668 | 37,356 | 37,622 | 43,065 | 43,826 | 45,594 | 46,355 | 47,115 | 47,876 | 48,911 |
| 22 | 36,996 | 37,684 | 37,950 | 43,584 | 44,345 | 46,112 | 46,873 | 47,634 | 48,395 | 49,430 |
| 23 | 37,324 | 38,012 | 38,278 | 44,103 | 44,863 | 46,631 | 47,392 | 48,152 | 48,913 | 49,948 |
| 24 | 37,652 | 38,340 | 38,606 | 44,621 | 45,382 | 47,150 | 47,910 | 48,671 | 49,432 | 50,467 |
| 25 | 37,980 | 38,668 | 38,934 | 45,140 | 45,900 | 47,668 | 48,429 | 49,190 | 49,950 | 50,985 |
| 26 | 38,308 | 38,996 | 39,262 | 45,658 | 46,419 | 48,187 | 48,947 | 49,708 | 50,469 | 51,504 |
| 27 | 38,636 | 39,324 | 39,590 | 46,177 | 46,937 | 48,705 | 49,466 | 50,227 | 50,987 | 52,022 |
| 28 | 38,964 | 39,653 | 39,918 | 46,695 | 47,456 | 49,224 | 49,984 | 50,745 | 51,506 | 52,541 |
| 29 | 39,292 | 39,981 | 40,247 | 47,214 | 47,974 | 49,742 | 50,503 | 51,264 | 52,024 | 53,059 |
| 30 | 39,620 | 40,309 | 40,575 | 47,732 | 48,493 | 50,261 | 51,021 | 51,782 | 52,543 | 53,578 |
| 31 | 39,949 | 40,637 | 40,903 | 48,251 | 49,012 | 50,779 | 51,540 | 52,301 | 53,061 | 54,096 |
| 32 | 40,277 | 40,965 | 41,231 | 48,769 | 49,530 | 51,298 | 52,059 | 52,819 | 53,580 | 54,615 |
| 33 | 40,605 | 41,293 | 41,559 | 49,288 | 50,049 | 51,816 | 52,577 | 53,338 | 54,099 | 55,134 |
| 34 | 40,933 | 41,621 | 41,887 | 49,806 | 50,567 | 52,335 | 53,096 | 53,856 | 54,617 | 55,652 |
| 35 | 41,261 | 41,949 | 42,215 | 50,325 | 51,086 | 52,853 | 53,614 | 54,375 | 55,136 | 56,171 |

~~(2) For school year 2019–2020, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus \$404; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.~~

~~(3) For school year 2020–2021, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus \$808; specific additional amounts prescribed in this section or article; and any county supplement in~~

~~effect in a county pursuant to §18A-4-5a of this code during the contract year.~~

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(d) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code, each teacher shall be paid an equity supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For “4th Class” at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For “3rd Class” at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For “2nd Class” at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For “A. B.” at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For “A. B. + 15” at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For “M. A.” at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For “M. A. + 15” at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M. A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M. A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For “Doctorate” at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE

| Years Exp. | PAY GRADE | | | | | | | |
|---------------|-----------|-------|-------|-------|-------|-------|-------|-------|
| | A | B | C | D | E | F | G | H |
| 0 | 1,704 | 1,725 | 1,767 | 1,820 | 1,873 | 1,936 | 1,968 | 2,041 |
| 1 | 1,736 | 1,758 | 1,799 | 1,852 | 1,906 | 1,969 | 2,000 | 2,074 |
| 2 | 1,769 | 1,790 | 1,832 | 1,885 | 1,938 | 2,001 | 2,033 | 2,106 |
| 3 | 1,801 | 1,823 | 1,865 | 1,918 | 1,971 | 2,034 | 2,066 | 2,139 |
| 4 | 1,834 | 1,856 | 1,897 | 1,950 | 2,003 | 2,067 | 2,098 | 2,173 |
| 5 | 1,867 | 1,888 | 1,930 | 1,983 | 2,036 | 2,099 | 2,131 | 2,205 |
| 6 | 1,899 | 1,921 | 1,964 | 2,016 | 2,069 | 2,132 | 2,164 | 2,238 |
| 7 | 1,933 | 1,953 | 1,996 | 2,048 | 2,101 | 2,165 | 2,196 | 2,271 |
| 8 | 1,966 | 1,986 | 2,029 | 2,081 | 2,134 | 2,197 | 2,229 | 2,303 |
| 9 | 1,998 | 2,019 | 2,062 | 2,115 | 2,167 | 2,230 | 2,261 | 2,336 |
| 10 | 2,031 | 2,052 | 2,094 | 2,147 | 2,199 | 2,264 | 2,295 | 2,369 |
| 11 | 2,064 | 2,085 | 2,127 | 2,180 | 2,232 | 2,296 | 2,328 | 2,401 |
| 12 | 2,096 | 2,118 | 2,159 | 2,213 | 2,266 | 2,329 | 2,360 | 2,434 |
| 13 | 2,129 | 2,150 | 2,192 | 2,245 | 2,298 | 2,361 | 2,393 | 2,467 |
| 14 | 2,162 | 2,183 | 2,225 | 2,278 | 2,331 | 2,394 | 2,426 | 2,499 |
| 15 | 2,194 | 2,216 | 2,257 | 2,310 | 2,363 | 2,427 | 2,458 | 2,532 |
| 16 | 2,227 | 2,248 | 2,290 | 2,343 | 2,396 | 2,459 | 2,491 | 2,565 |
| 17 | 2,259 | 2,281 | 2,324 | 2,376 | 2,429 | 2,492 | 2,524 | 2,598 |
| 18 | 2,292 | 2,314 | 2,356 | 2,408 | 2,461 | 2,525 | 2,556 | 2,631 |
| 19 | 2,326 | 2,346 | 2,389 | 2,441 | 2,494 | 2,557 | 2,589 | 2,663 |
| 20 | 2,358 | 2,379 | 2,422 | 2,475 | 2,527 | 2,590 | 2,622 | 2,697 |
| 21 | 2,391 | 2,411 | 2,454 | 2,507 | 2,559 | 2,623 | 2,654 | 2,731 |
| 22 | 2,424 | 2,445 | 2,487 | 2,540 | 2,592 | 2,656 | 2,688 | 2,763 |
| 23 | 2,456 | 2,478 | 2,520 | 2,573 | 2,626 | 2,690 | 2,722 | 2,797 |
| 24 | 2,489 | 2,510 | 2,552 | 2,605 | 2,658 | 2,724 | 2,755 | 2,831 |

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 25 | 2,522 | 2,543 | 2,585 | 2,638 | 2,692 | 2,756 | 2,789 | 2,863 |
| 26 | 2,554 | 2,576 | 2,617 | 2,672 | 2,726 | 2,790 | 2,821 | 2,897 |
| 27 | 2,587 | 2,608 | 2,650 | 2,704 | 2,758 | 2,822 | 2,855 | 2,930 |
| 28 | 2,620 | 2,641 | 2,684 | 2,738 | 2,792 | 2,856 | 2,889 | 2,964 |
| 29 | 2,652 | 2,675 | 2,717 | 2,770 | 2,825 | 2,890 | 2,921 | 2,998 |
| 30 | 2,686 | 2,707 | 2,751 | 2,804 | 2,858 | 2,922 | 2,955 | 3,031 |
| 31 | 2,719 | 2,741 | 2,785 | 2,838 | 2,892 | 2,956 | 2,989 | 3,064 |
| 32 | 2,753 | 2,774 | 2,817 | 2,871 | 2,924 | 2,990 | 3,021 | 3,098 |
| 33 | 2,787 | 2,807 | 2,851 | 2,905 | 2,958 | 3,022 | 3,055 | 3,131 |
| 34 | 2,819 | 2,841 | 2,885 | 2,939 | 2,992 | 3,056 | 3,089 | 3,164 |
| 35 | 2,853 | 2,875 | 2,917 | 2,971 | 3,024 | 3,090 | 3,122 | 3,198 |
| 36 | 2,887 | 2,908 | 2,951 | 3,005 | 3,059 | 3,123 | 3,156 | 3,230 |
| 37 | 2,919 | 2,942 | 2,985 | 3,039 | 3,093 | 3,157 | 3,189 | 3,264 |
| 38 | 2,953 | 2,974 | 3,017 | 3,071 | 3,125 | 3,190 | 3,222 | 3,298 |
| 39 | 2,987 | 3,008 | 3,051 | 3,105 | 3,159 | 3,223 | 3,256 | 3,330 |
| 40 | 3,019 | 3,042 | 3,084 | 3,138 | 3,193 | 3,257 | 3,289 | 3,364 |

Years
Exp.

PAY GRADE

| | A | B | C | D | E | F | G | H |
|---|-------|-------|-------|-------|-------|-------|-------|-------|
| 0 | 1,748 | 1,769 | 1,811 | 1,864 | 1,917 | 1,980 | 2,012 | 2,085 |
| 1 | 1,780 | 1,802 | 1,843 | 1,896 | 1,950 | 2,013 | 2,044 | 2,118 |
| 2 | 1,813 | 1,834 | 1,876 | 1,929 | 1,982 | 2,045 | 2,077 | 2,150 |
| 3 | 1,845 | 1,867 | 1,909 | 1,962 | 2,015 | 2,078 | 2,110 | 2,183 |
| 4 | 1,878 | 1,900 | 1,941 | 1,994 | 2,047 | 2,111 | 2,142 | 2,217 |
| 5 | 1,911 | 1,932 | 1,974 | 2,027 | 2,080 | 2,143 | 2,175 | 2,249 |
| 6 | 1,943 | 1,965 | 2,008 | 2,060 | 2,113 | 2,176 | 2,208 | 2,282 |
| 7 | 1,977 | 1,997 | 2,040 | 2,092 | 2,145 | 2,209 | 2,240 | 2,315 |
| 8 | 2,010 | 2,030 | 2,073 | 2,125 | 2,178 | 2,241 | 2,273 | 2,347 |
| 9 | 2,042 | 2,063 | 2,106 | 2,159 | 2,211 | 2,274 | 2,305 | 2,380 |

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 10 | 2,075 | 2,096 | 2,138 | 2,191 | 2,243 | 2,308 | 2,339 | 2,413 |
| 11 | 2,108 | 2,129 | 2,171 | 2,224 | 2,276 | 2,340 | 2,372 | 2,445 |
| 12 | 2,140 | 2,162 | 2,203 | 2,257 | 2,310 | 2,373 | 2,404 | 2,478 |
| 13 | 2,173 | 2,194 | 2,236 | 2,289 | 2,342 | 2,405 | 2,437 | 2,511 |
| 14 | 2,206 | 2,227 | 2,269 | 2,322 | 2,375 | 2,438 | 2,470 | 2,543 |
| 15 | 2,238 | 2,260 | 2,301 | 2,354 | 2,407 | 2,471 | 2,502 | 2,576 |
| 16 | 2,271 | 2,292 | 2,334 | 2,387 | 2,440 | 2,503 | 2,535 | 2,609 |
| 17 | 2,303 | 2,325 | 2,368 | 2,420 | 2,473 | 2,536 | 2,568 | 2,642 |
| 18 | 2,336 | 2,358 | 2,400 | 2,452 | 2,505 | 2,569 | 2,600 | 2,675 |
| 19 | 2,370 | 2,390 | 2,433 | 2,485 | 2,538 | 2,601 | 2,633 | 2,707 |
| 20 | 2,402 | 2,423 | 2,466 | 2,519 | 2,571 | 2,634 | 2,666 | 2,741 |
| 21 | 2,435 | 2,455 | 2,498 | 2,551 | 2,603 | 2,667 | 2,698 | 2,775 |
| 22 | 2,468 | 2,489 | 2,531 | 2,584 | 2,636 | 2,700 | 2,732 | 2,807 |
| 23 | 2,500 | 2,522 | 2,564 | 2,617 | 2,670 | 2,734 | 2,766 | 2,841 |
| 24 | 2,533 | 2,554 | 2,596 | 2,649 | 2,702 | 2,768 | 2,799 | 2,875 |
| 25 | 2,566 | 2,587 | 2,629 | 2,682 | 2,736 | 2,800 | 2,833 | 2,907 |
| 26 | 2,598 | 2,620 | 2,661 | 2,716 | 2,770 | 2,834 | 2,865 | 2,941 |
| 27 | 2,631 | 2,652 | 2,694 | 2,748 | 2,802 | 2,866 | 2,899 | 2,974 |
| 28 | 2,664 | 2,685 | 2,728 | 2,782 | 2,836 | 2,900 | 2,933 | 3,008 |
| 29 | 2,696 | 2,719 | 2,761 | 2,814 | 2,869 | 2,934 | 2,965 | 3,042 |
| 30 | 2,730 | 2,751 | 2,795 | 2,848 | 2,902 | 2,966 | 2,999 | 3,075 |
| 31 | 2,763 | 2,785 | 2,829 | 2,882 | 2,936 | 3,000 | 3,033 | 3,108 |
| 32 | 2,797 | 2,818 | 2,861 | 2,915 | 2,968 | 3,034 | 3,065 | 3,142 |
| 33 | 2,831 | 2,851 | 2,895 | 2,949 | 3,002 | 3,066 | 3,099 | 3,175 |
| 34 | 2,863 | 2,885 | 2,929 | 2,983 | 3,036 | 3,100 | 3,133 | 3,208 |
| 35 | 2,897 | 2,919 | 2,961 | 3,015 | 3,068 | 3,134 | 3,166 | 3,242 |
| 36 | 2,931 | 2,952 | 2,995 | 3,049 | 3,103 | 3,167 | 3,200 | 3,274 |
| 37 | 2,963 | 2,986 | 3,029 | 3,083 | 3,137 | 3,201 | 3,233 | 3,308 |
| 38 | 2,997 | 3,018 | 3,061 | 3,115 | 3,169 | 3,234 | 3,266 | 3,342 |

| | | | | | | | | |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 39 | 3,031 | 3,052 | 3,095 | 3,149 | 3,203 | 3,267 | 3,300 | 3,374 |
| 40 | 3,063 | 3,086 | 3,128 | 3,182 | 3,237 | 3,301 | 3,333 | 3,408 |

~~(2) For school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade, plus \$22; and the minimum monthly pay for each service employee whose employment is for a period of three and one half hours or less a day shall be at least one half the amount indicated in the State Minimum Pay Scale Pay Grade, plus \$11.~~

(3)(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

| CLASS TITLE | PAY GRADE |
|-----------------------------------|-----------|
| Accountant I | D |
| Accountant II | E |
| Accountant III | F |
| Accounts Payable Supervisor | G |
| Aide I | A |
| Aide II | B |
| Aide III | C |
| Aide IV | D |
| Audiovisual Technician | C |
| Auditor | G |
| Autism Mentor | F |
| Braille Specialist | E |
| Bus Operator | D |
| Buyer | F |
| Cabinetmaker | G |
| Cafeteria Manager | D |
| Carpenter I | E |
| Carpenter II | F |
| Chief Mechanic | G |
| Clerk I | B |

| | |
|---|---|
| Clerk II | C |
| Computer Operator | E |
| Cook I | A |
| Cook II | B |
| Cook III | C |
| Crew Leader | F |
| Custodian I | A |
| Custodian II | B |
| Custodian III | C |
| Custodian IV | D |
| Director or Coordinator of Services | H |
| Draftsman | D |
| Early Childhood Classroom Assistant Teacher I | E |
| Early Childhood Classroom Assistant Teacher II | E |
| Early Childhood Classroom Assistant Teacher III | F |
| Educational Sign Language Interpreter I | F |
| Educational Sign Language Interpreter II | G |
| Electrician I | F |
| Electrician II | G |
| Electronic Technician I | F |
| Electronic Technician II | G |
| Executive Secretary | G |
| Food Services Supervisor | G |
| Foreman | G |
| General Maintenance | C |
| Glazier | D |
| Graphic Artist | D |
| Groundsman | B |
| Handyman | B |
| Heating and Air Conditioning Mechanic I | E |
| Heating and Air Conditioning Mechanic II | G |
| Heavy Equipment Operator | E |
| Inventory Supervisor | D |
| Key Punch Operator | B |
| Licensed Practical Nurse | F |
| Locksmith | G |
| Lubrication Man | C |
| Machinist | F |
| Mail Clerk | D |

| | |
|---|---|
| Maintenance Clerk | C |
| Mason | G |
| Mechanic | F |
| Mechanic Assistant | E |
| Office Equipment Repairman I | F |
| Office Equipment Repairman II | G |
| Painter | E |
| Paraprofessional | F |
| Payroll Supervisor | G |
| Plumber I | E |
| Plumber II | G |
| Printing Operator | B |
| Printing Supervisor | D |
| Programmer | H |
| Roofing/Sheet Metal Mechanic | F |
| Sanitation Plant Operator | G |
| School Bus Supervisor | E |
| Secretary I | D |
| Secretary II | E |
| Secretary III | F |
| Sign Support Specialist | E |
| Supervisor of Maintenance | H |
| Supervisor of Transportation | H |
| Switchboard Operator-Receptionist | D |
| Truck Driver | D |
| Warehouse Clerk | C |
| Watchman | B |
| Welder | F |
| WVEIS Data Entry and Administrative Clerk | B |

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) To meet the objective of salary equity among the counties, each service person is paid an equity supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however*, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos,

decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

Following points of inquiry to the President, with resultant responses thereto,

The question being on the adoption of Senator Boso's amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4145).

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

Senator Ferns moved the previous question, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' motion for the previous question had prevailed.

The previous question having been ordered, that being on the adoption of Senator Boso's amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4145), and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Arvon, Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Boso's amendment to the Finance committee amendment to the bill (Eng. Com. Sub. for H. B. 4145) adopted.

The question now being on the adoption of the Finance committee amendment to the bill, as amended, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard,

Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Arvon, Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared the Finance committee amendment to the bill, as amended, adopted.

Following a point of inquiry,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4145), as just amended, was then read a third time and put upon its passage.

Senator Ferns moved the previous question, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' motion for the previous question had prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for House Bill 4145.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard,

Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Arvon, Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Mann and Maroney—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4145) passed with its title.

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

On this question, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—20.

The nays were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—12.

Absent: Mann and Maroney—2.

So, less than two thirds of all the members elected to the Senate having voted in the affirmative, the President declared Senator Ferns' aforesated motion had not prevailed.

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

On motion of Senator Ferns, at 9:37 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 10:23 p.m. tonight and, without objection, returned to the third order of business.

A message from The Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendment to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Senator Ferns moved that the Senate refuse to recede from its amendment to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

The question being on the adoption of Senator Ferns' aforesaid motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maynard, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Arvon, Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—13.

Absent: Mann and Maroney—2.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Ferns' aforesaid motion had prevailed.

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

Senators Ferns, Blair, and Plymale.

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

On motion of Senator Ferns, at 10:25 p.m., the Senate adjourned until Monday, March 5, 2018, at 11 a.m.

MONDAY, MARCH 5, 2018

The Senate met at 11:32 a.m.

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

Prayer was offered by Pastor Matt Friend, Senior Pastor, Bible Center Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ron Stollings, a senator from the seventh district.

Pending the reading of the Journal of Saturday, March 3, 2018,

At the request of Senator Smith, 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 amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

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

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

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

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

**ARTICLE 51. PHARMACY AUDIT INTEGRITY AND
TRANSPARENCY ACT.**

§33-51-9. Regulation of Pharmacy Benefit Managers.

(a) A pharmacy technician and a pharmacist shall have the right to provide a covered individual with information related to lower cost cash alternatives and cost share for such covered individual to assist health care consumers in making informed decisions. Neither a pharmacy technician nor a pharmacist shall be penalized by a pharmacy benefit manager for discussing information in this section or for selling a lower cost alternative to a covered individual, if one is available, without using a health insurance policy. The employer of the pharmacy technician or pharmacist shall not be penalized by a pharmacy benefit manager for permitting its employees to discuss information in this section or sell a lower cost alternative to a covered individual, if one is available, without using a health insurance policy.

(b) A pharmacy benefit manager shall not collect from a pharmacy or a pharmacist a cost share charged to a covered individual that exceeds the total submitted charges by the pharmacy or pharmacist to the pharmacy benefit manager.

(c) A pharmacy benefit manager may only directly or indirectly charge or hold a pharmacy, pharmacy technician or pharmacist responsible for a fee related to a claim if:

(1) The total amount of the fee is identified, reported, and specifically explained for each line item on the remittance advice of the adjudicated claim; or

(2) The total amount of the fee is apparent at the point of sale and not adjusted between the point of sale and the issuance of the remittance advice.

(d) This section shall not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 46—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-51-9, all relating to pharmacy benefit managers; providing that a pharmacy or pharmacist may inform consumers of lower cost alternatives and cost share to assist health care consumers in making informed decisions; prohibiting pharmacy benefit managers from penalizing a pharmacy or pharmacist for discussing certain information with consumers; prohibiting pharmacy benefit managers from collecting cost shares exceeding the total submitted charges by a pharmacy or pharmacist; setting forth limitations on pharmacy benefit managers when charging certain claim fees to a pharmacy or pharmacist; and excluding an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D from this code section.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 46) and requested the House of Delegates to recede therefrom.

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

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

Eng. Senate Bill 143, Permitting DNR identification tag be used to identify trap.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

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

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-19. Marking of traps.

All traps used for taking game or fur-bearing animals shall be marked with a durable plate or tag, attached to the snare, trap, or trap chain, bearing: ~~either~~ the name and address of the owner of the trap; or the Division of Natural Resources identification number of the owner of the trap.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 143, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: 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)—33.

The nays were: None.

Absent: Arvon—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 143) passed with its title.

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

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

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

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Senate Bill 343—A Bill to amend and reenact §11A-3-58 of the Code of West Virginia, 1931, as amended, relating to distributions to purchasers after land has been redeemed; increasing the amount of expenses that may be paid to a purchaser for expenses incurred in preparing the list of those to be served with notice to redeem and title examination to \$500.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Senate Bill 343, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 343) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with

its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

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

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

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

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

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-5. Video lottery terminal requirements; ~~file~~ of specific game rules with the Secretary of State application for approval of a video lottery terminal; testing of video lottery terminals; report of test results; modifications to previously approved models; conformity to prototype; seizure and destruction of terminals.

(a) Video lottery terminals registered with and approved by the commission for use at licensed racetracks may offer video lottery games regulated, controlled, and owned and operated by the commission in accordance with the provisions of this section: ~~and utilizing specific game rules separately filed from time to time by the commission with the Secretary of State~~ Provided, That the Secretary of State shall post on the secretary's website that the rules for video lottery games that have been approved by the commission are available for review at the office of the commission and provide relevant contact information.

(b) A manufacturer may not sell or lease a video lottery terminal for placement at a licensed racetrack in this state unless the terminal has been approved by the commission. Only manufacturers with permits may apply for approval of a video

lottery terminal or associated equipment. The manufacturer shall submit two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the commission for the purpose of analyzing and testing the video lottery terminal or associated equipment.

(c) The commission may require that two working models of a video lottery terminal be transported to the location designated by the commission for testing, examination, and analysis.

(1) The manufacturer shall pay all costs of testing, examination, analysis, and transportation of such video lottery terminal models. The testing, examination, and analysis of any video lottery terminal model may require dismantling of the terminal and some tests may result in damage or destruction to one or more electronic components of such terminal model. The commission may require that the manufacturer provide specialized equipment or pay for the services of an independent technical expert to test the terminal.

(2) The manufacturer shall pay the cost of transportation of two video lottery terminals to lottery headquarters. The commission shall conduct an acceptance test to determine terminal functions and central system compatibility. If the video lottery terminal fails the acceptance test conducted by the commission, the manufacturer shall make all modifications required by the commission.

(d) After each test has been completed, the commission shall provide the terminal manufacturer with a report containing findings, conclusions, and pass/fail results. The report may contain recommendations for video lottery terminal modification to bring the terminal into compliance with the provisions of this article. Prior to approving a particular terminal model, the commission may require a trial period not in excess of 60 days for a licensed racetrack to test the terminal. During the trial period, the manufacturer may not make any modifications to the terminal model unless such modifications are approved by the commission.

(e) The video lottery terminal manufacturer and licensed racetrack are jointly responsible for the assembly and installation of all video lottery terminals and associated equipment. The manufacturer and licensed racetrack shall not change the assembly or operational functions of a terminal licensed for placement in West Virginia unless a request for modification of an existing video terminal prototype is approved by the commission. The request must contain a detailed description of the type of change, the reasons for the change, and technical documentation of the change.

(f) Each video lottery terminal approved for placement at a licensed racetrack must conform to the exact specifications of the video lottery terminal prototype tested and approved by the commission. If any video lottery terminal or any video lottery terminal modification, which has not been approved by the commission, is supplied by a manufacturer and operated by a licensed racetrack, the commission shall seize and destroy all of that licensed racetrack's and manufacturer's noncomplying video lottery terminals and shall suspend the license and permit of the licensed racetrack and manufacturer.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 350—A Bill to amend and reenact §29-22A-5 of the Code of West Virginia, 1931, as amended, relating to the elimination of a requirement that the Lottery Commission file racetrack video lottery game rules with the Secretary of State; and requiring the Secretary of State to post a notice on its website that the rules for video lottery games that have been approved by the Lottery Commission are available for review at the office of the commission and provide relevant contact information.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 350, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: Azinger and Smith—2.

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. 350) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for House Bill 2696, Relating to crossbow hunting.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

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

Delegates Anderson, Espinosa, and Boggs.

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

Eng. House Bill 4332, Relating to home peritoneal renal dialysis.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 633 (originating in the Committee on Finance)—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2018, in the amount of \$1,620,000 from the Department of Revenue, Insurance Commissioner - Insurance Commission Fund, fund 7152, fiscal year 2018, organization 0704, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Consolidated Medical Services Fund, fund 0525, fiscal year 2018, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.

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

Respectfully submitted,

Craig Blair,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 634 (originating in the Committee on Finance)—A Bill supplementing and amending by adding, increasing, and decreasing the 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, and to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2018, organization 0506, by supplementing, amending, adding, increasing, and decreasing the appropriations for the fiscal year ending June 30, 2018.

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

Respectfully submitted,

Craig Blair,
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 4214, Increasing penalties for unlawfully possessing or digging ginseng.

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.

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 4276, Allowing magistrates to grant work release privileges.

And,

Eng. House Bill 4529, Relating to oath by municipal official certifying list of delinquent business and occupation taxes.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. House Bill 4376, Expiring funds to the balance of the Department of Health and Human Resources.

And,

Eng. House Bill 4379, Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation.

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

Respectfully submitted,

Craig Blair,
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 4571, Relating to the final day of filing announcements of candidates for a political office.

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.

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. House Bill 4627, Relating to providing a limitation on the eminent domain authority of a municipal park board.

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.

At the request of Senator Maynard, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the sixth order of business.

Senators Carmichael (Mr. President), Stollings, Plymale, Cline, and Prezioso offered the following resolution:

Senate Resolution 61—Designating the month of March 2018, as American Red Cross Month.

Whereas, The American Red Cross saw a record-breaking year in 2017 of challenging domestic and international disaster response efforts, responding to six of the largest and most complex disasters, including back-to-back hurricanes, the deadliest week of wildfires

in California history, and the horrific mass shooting in Las Vegas. West Virginia American Red Cross volunteers and staff deployed over 250 times in response to such large scale disasters; and

Whereas, In West Virginia, the American Red Cross has a long history of helping our neighbors in need. In the past year alone, they: Assisted over 1,000 families who have experienced a disaster, a majority of which were home fires; installed almost 8,000 smoke alarms; reached 5,600 people with fire safety information; and educated more than 7,000 students in disaster preparedness education through the Pillowcase Project; and

Whereas, In West Virginia, the American Red Cross assisted over 700 military members, veterans, and their families; collected almost 40,000 units of blood; and educated over 23,000 West Virginians in life-saving skills courses in the past year; and

Whereas, March is American Red Cross Month, a special time to recognize and thank the American Red Cross volunteers and donors who give their time and resources to help members of their community. The American Red Cross depends on these local heroes to deliver help and hope during a disaster. We applaud our heroes here in West Virginia who give of themselves to assist their neighbors when they need a helping hand; and

Whereas, The month of March is dedicated to all those who support the American Red Cross mission to prevent and alleviate human suffering in the face of emergencies. Our community depends on the American Red Cross, which relies on donations of time, money, and blood to fulfill its humanitarian mission; therefore, be it

Resolved by the Senate:

That the Senate designates the month of March 2018, as American Red Cross Month; and, be it

Further Resolved, That the Senate extends its sincere gratitude and appreciation to the West Virginia American Red Cross for its dedicated public service to the citizens of West Virginia; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the West Virginia American Red Cross.

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

Senators Boso and Plymale offered the following resolution:

Senate Resolution 62—Congratulating Quinn Raffo, of Craigsville, West Virginia, on being a distinguished finalist of the 2018 Prudential Spirit of Community Award.

Whereas, Quinn Raffo, an esteemed resident of Craigsville, West Virginia, and a student at Richwood High School, has achieved national recognition for exemplary volunteer service by being named a distinguished finalist for the 2018 Prudential Spirit of Community Award; and

Whereas, Distinguished finalists of the 2018 Prudential Spirit of Community Award presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

Whereas, Quinn Raffo earned this award by giving generously of her time and energy to a program she founded, Hunger Heroes. This is a program that distributes weekly backpacks filled with food during the summer to ensure that local students in need have enough to eat. She has raised nearly \$15,000 and recruited volunteers to support her backpack program, which has distributed more than 8,000 meals over the past three years; and

Whereas, The success of West Virginia, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Quinn Raffo, who use their considerable talents and resources to serve others; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates Quinn Raffo, of Craigsville, West Virginia, on being a distinguished finalist of the 2018 Prudential Spirit of Community Award; and, be it

Further Resolved, That the Senate recognizes Quinn Raffo's outstanding record of volunteer service, peer leadership, and community spirit, and extends its best wishes to her for continued success; and be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Quinn Raffo.

At the request of Senator Boso, 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 62 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:54 a.m., the Senate recessed to present Senate Resolution 62.

The Senate reconvened at 11:57 a.m. today and proceeded to the seventh order of business.

Senate Concurrent Resolution 48, US Army MSG Monty Ray Skeen, Sr., Memorial Bridge.

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

Senate Concurrent Resolution 49, US Army PFC Robert "Bobby" Tate, Jr., Memorial Bridge.

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2889, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

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 H. B. 2889) passed with its title.

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

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

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 H. B. 2995) passed.

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

Eng. Com. Sub. for House Bill 2995—A Bill to amend and reenact §30-10-12 of the Code of West Virginia, 1931, as amended, relating to qualifications for certification as an animal euthanasia technician; authorizing issuance of animal euthanasia technician certificate to certain persons certified by another state or jurisdiction; setting requirements for issuance of certificate; and authorizing fees to be prescribed by the Board of Veterinary Medicine in legislative rule.

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

Eng. House Bill 4219, Permitting employees of educational services cooperatives to participate in the State Teachers Retirement System.

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 referred to the Committee on Rules.

Eng. Com. Sub. for House Bill 4238, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4238 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 H. B. 4238) passed with its title.

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

Eng. House Bill 4539, Providing an annual annuity adjustment of 1 percent for eligible deputy sheriff retirants and surviving spouses.

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 referred to the Committee on Rules.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Joint Resolution 8, County Economic Development Amendment.

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

At the request of Senator Ferns, unanimous consent being granted, the resolution was referred to the Committee on Rules.

Eng. Com. Sub. for House Bill 2464, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

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

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

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

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-107. Disclaimer of warranties and remedies prohibited.

(a) Notwithstanding any other provision of law to the contrary Except as otherwise provided in subsection (b) of this section, with respect to goods which are the subject of or are intended to become the subject of a consumer transaction, no merchant shall may:

(1) Exclude, modify, or otherwise attempt to limit any warranty, express, or implied, including the warranties of merchantability and fitness for a particular purpose; or

(2) Exclude, modify or attempt to limit any remedy provided by law, including the measure of damages available, for a breach of warranty, express, or implied.

~~Any such exclusion, modification or attempted limitation shall be void.~~

(b) A consumer who purchases a used manufactured home may waive the warranties of merchantability and fitness for a particular purpose, or waive a warranty as to a particular defect or malfunction which the merchant has identified and disclosed in writing to the consumer, if the used manufactured home is not being sold for human habitation: *Provided*, That notice be posted on the front door of the used manufactured home that it is not being sold for human habitation: *Provided, however*, That the waiver is not effective unless the waiver:

(1) Is in writing;

(2) Is conspicuous and is in plain language;

(3) Identifies with particularity the disclosed defect or malfunction, if any, in the used manufactured home for which the warranty is to be waived;

(4) Describes any additional defects or malfunctions, if any, disclosed to the merchant by a previous owner of the used manufactured home or discoverable by the merchant after an inspection of the used manufactured home;

(5) States that the warranty being waived applies only to the disclosed defect or malfunction, if any, to the extent the merchant intends to waive a warranty as to a specific defect;

(6) Acknowledges that the used manufactured home will not be used for human habitation: *Provided*, That the consumer shall sign or initial such provision in order to evidence the consumer's acknowledgment thereof; and

(7) Is signed by both the consumer and the merchant before the sales contract is executed.

For purposes of this subsection, "used manufactured home" means a manufactured home, as defined in §21-9-2 of this code, that is more than four years old from its date of production and has previously been occupied, used, or sold for purposes other than resale.

The bill (Eng. Com. Sub. for H. B. 2464), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

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

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

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

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 1. DEPARTMENT OF ADMINISTRATION.

§5A-1-2. Department of Administration and Office of Secretary; secretary; divisions; directors.

(a) The Department of Administration and the Office of Secretary of Administration are continued in the executive branch of state government. The secretary is the Chief Executive Officer of the department and shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the Governor.

(b) The Department of Administration may receive federal funds.

(c) The secretary serves at the will and pleasure of the Governor. The annual compensation of the secretary shall be as specified in §6-7-2a of this code.

(d) There shall be in the Department of Administration an Aviation Division, at the discretion of the secretary, a Finance Division, a Fleet Management Division, a General Services Division, an Information Services and Communications Division, Division of Personnel and a Purchasing Division. Each division shall be headed by a director who may also head any and all sections within that division and who shall be appointed by the secretary.

(e) There shall also be in the Department of Administration those agencies, boards, commissions and councils specified in §5F-2-1 of this code.

~~(f) The secretary may establish a Fleet Management Office within the Department of Administration to:~~

~~(1) Manage all motor vehicles and aircraft owned or possessed by the State of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities: *Provided*, That, such vehicles and aircraft shall not be used for personal purposes, other than for de minimis personal use;~~

~~(2) Administer the rules, including emergency rules, promulgated under the provisions of sections forty-eight and forty-nine, article three of this chapter; and~~

~~(3) Perform any duties relating to motor vehicles and aircraft owned or possessed by the State of West Virginia assigned by the secretary, which duties may include those set out in §5A-3-50 through §5A-3-53 of this code.~~

ARTICLE 3. PURCHASING DIVISION.

§5A-3-49. Central motor pool for state-owned vehicles and aircraft.

[Repealed]

§5A-3-52. ~~Special funds for travel management created.~~ Aviation division; fund.

~~(a) The travel management special fund is terminated. All deposits currently in this special fund from aviation fees shall be transferred into the Aviation Fund created in subsection c of this section. All funds in this special fund from the monthly fee for vehicles shall be transferred into the Fleet Management Office Fund created in subsection (b) of this section.~~

~~(b) There is created in the State Treasury a special revenue account, to be known as the Fleet Management Office Fund. Expenditures are authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue~~

~~account and shall be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to this section, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing motor vehicles made against any institution, agency or department shall be paid into the Fleet Management Office Fund by that institution, department or agency.~~

(a) The secretary may establish an aviation division within the Department of Administration to:

(1) Manage all aircraft owned or possessed by the State of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities: *Provided, That, such aircraft shall not be used for personal purposes;*

(2) Administer the rules, including emergency rules, promulgated under the provisions of §5A-3-48 of this code; and

(3) Perform any duties relating to aircraft owned or possessed by the State of West Virginia assigned by the secretary, which duties may include those set out in §5A-3-50 through §5A-3-53 of this code.

~~(e)~~(b) The special revenue account, to be known as the Aviation Fund, is hereby continued and shall be administered by the director of the division, or in the absence of a director, by the secretary. Expenditures from this fund are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to §5A-3-52 of this code, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing aircraft made against any institution, agency, or department shall be paid into the Aviation Fund by that institution, department, or agency.

ARTICLE 12. FLEET MANAGEMENT DIVISION.**§5A-12-1 Definitions.**

As used in this article:

(a) “Central motor pool” means, under the direction and control of the Secretary of Administration, the group of state vehicles to be shared among spending units;

(b) “Centralized accounting system” means the system of record for the maintenance of an accurate inventory of state vehicle fixed assets as maintained by the Enterprise Resource Planning Board pursuant to §12-6D-1 *et seq.* of this code;

(c) “Director” means the Director of the Fleet Management Division;

(d) “Division” means the Fleet Management Division, under the Department of Administration, as established pursuant to this article;

(e) “Fleet Coordinator” means the head of a spending unit, or his or her designee, who is responsible for the duties of fleet coordinator as required by this article;

(f) “Indirect costs” means the expenses of operating state vehicles that may or may not be attributable to a specific vehicle, including miscellaneous expenses for cleaning supplies, shop supplies, small parts, office and administrative expenses attributable to fleet coordinator activity, training costs for fleet coordinators and state vehicle driver training, facilities costs, administrative office overhead, parking costs, and shop equipment costs where applicable;

(g) “Secretary” means the Secretary of the Department of Administration;

(h) “Spending unit” means the State of West Virginia and all agencies, offices, departments, divisions, boards, commissions, councils, committees, or other entities of the state government for which an appropriation is requested or to which an appropriation is made by the Legislature. “Spending unit” does not mean any

county, city, township, public service district, or other political subdivision of the state;

(i) “State vehicle” means, for the purpose of this article, a vehicle with a rating of one ton or less that is owned, purchased, or leased by any state spending unit, on which a state vehicle license plate is required, where the use of such vehicle is paid for with public funds regardless of the source of such funding, but does not include all-terrain vehicles (ATVs) or vehicles requiring a commercial driver’s license to operate;

(j) “State vehicle fleet” means all state vehicles;

(k) “State vehicle license plate” means a license plate authorized to be issued by the Division of Motor Vehicles pursuant to §17A-3-23 and §17A-3-25 of this code, which identifies the vehicle as owned or leased by the state or a spending unit;

(l) “State Vehicle Title, Registration and Relicensing Project of 2018” means the requirement for all spending units owning or leasing state vehicles, to report to the Division of Motor Vehicles and obtain new titles, new registration cards and new state vehicle license plates by December 31, 2018, pursuant to §17A-3-23 and §17A-3-25 of this code, to standardize the naming conventions on titles and registration cards of state vehicles in order to facilitate the creation and maintenance of a centralized state vehicle inventory system; and

(m) “Vehicle log” means the record of state vehicle use, to be updated by the vehicle operator and maintained by the fleet coordinators, used to track vehicle utilization data required to be compiled and maintained pursuant to this article.

§5A-12-2. Scope of Article.

(a) This article applies to all spending units of state government relating to the purchase, lease, or use of any state vehicle with the expenditure of public funds, except as otherwise provided by this code.

(b) Notwithstanding any exemption given to a spending unit by this code from the provisions of §5A-3-1 *et seq.* of this code or any

prior exemption granted administratively from the Fleet Management Division or the Fleet Management Office, each spending unit of the state that owns, leases, purchases, or reimburses for personal vehicle use, shall comply with the reporting provisions of this article.

§5A-12-3. Fleet Management Division created; director; duties and responsibilities.

(a) The Fleet Management Office, as previously authorized pursuant to §5A-1-2 and §5A-3-52 of this code, is hereby continued in the Department of Administration as the Fleet Management Division for the purpose of maintaining a state vehicle fleet.

(b) The Division shall have the following duties and responsibilities:

(1) To provide or contract for management services, including fueling and vehicle maintenance, and any other services necessary to properly manage the operation and use of state vehicles;

(2) To preapprove and assist with purchase of new or replacement vehicles for agencies including facilitating financing arrangements;

(3) To maintain a state vehicle fleet for all state vehicles owned or leased by the State of West Virginia or any of its spending units;

(4) To charge a fee for division services by spending units utilizing state vehicles;

(5) To provide training and notice to fleet coordinators and spending units concerning the duties and responsibilities under this article, including any requirements related to the State Vehicle Title, Registration and Relicensing Project of 2018, established pursuant to §17A-3-25 of this code;

(6) To develop safe operation and other policies governing state vehicle use;

(7) To propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code;

(8) Report annually to the Governor and to the Joint Committee on Government and Finance, regarding the operations of the state fleet and the utilization of state vehicles;

(9) To develop and maintain, in cooperation with the Travel Management Office, state policies for the utilization of state vehicles, including establishing best practices for state vehicle use; and

(10) To provide assistance upon request to any spending unit related to financing, purchasing, leasing, operating, maintaining, transferring, and decommissioning state vehicles.

(c) The secretary shall appoint a director of the division, who shall:

(1) Employ such staff as needed to effectuate the provisions of this article;

(2) Maintain adequate office space for staff and equipment as needed to effectuate the provisions of this article; and

(3) Under the direction of the secretary, establish a central motor pool, which shall be maintained and administered by the division, subject to such rules as the director may promulgate: *Provided*, That the division is responsible for the storage, maintenance, and repairs of all vehicles assigned to the central motor pool.

§5A-12-4. Fleet Management Division Fund.

The special revenue account, known as the “Fleet Management Office Fund”, previously created by §5A-3-52 of this code, shall terminate effective July 1, 2018. On and after July 1, 2018, all funds previously belonging to the Fleet Management Office Fund shall transfer to the special revenue account which shall be known as the “Fleet Management Division Fund” which shall be created in the State Treasury, and shall be administered by the director.

Expenditures are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with §12-3-1 *et seq.* of this code and upon fulfillment of the requirements of §11B-2-1 *et seq.* of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and may be used solely in a manner consistent with this article.

§5A-12-5. Rule-making authority; emergency rules.

(a) The director shall propose legislative rules as may be necessary to implement this article, in accordance with §29A-3-1 *et seq.* of this code. Those rules shall include, but not be limited to:

(1) Requirements governing the use of state vehicles;

(2) Reporting requirements and responsibilities for fleet coordinators;

(3) Requirements and responsibilities for each driver or operator of a state vehicle;

(4) Information to be collected and maintained on state vehicle log sheets, including information related to mileage, destinations, and purpose of trip;

(5) The form and manner for each spending unit fleet coordinator to report to the division, including any electronic format as deemed necessary by the director;

(6) The information that each spending unit fleet coordinator shall collect and maintain regarding state vehicle use by the spending unit;

(7) The information for spending unit fleet coordinators to annually report to the division regarding state vehicle use;

(8) Requirements and policies governing commuting in and taking home state vehicles; and

(9) Requirements and policies governing volunteer and non-public employee drivers.

(b) All rules of the Fleet Management Office in effect on the effective date of this article shall remain in effect until they are amended, replaced, or repealed: *Provided*, That these rules shall expire on July 1, 2021, if not sooner superseded.

(c) On or before June 15, 2018, the director shall propose emergency legislative rules which may amend or modify existing legislative rules governing the use of state vehicles pursuant to §5A-12-1 *et seq.* of this code to implement the provisions of this article.

§5A-12-6. Vehicle operator regulations; training.

(a) Each operator of a state vehicle, or a personal vehicle for which reimbursement is sought, shall maintain the vehicle logs to the level of detail required by the division through legislative rules, and as may be required by the spending unit.

(b) Each operator of a state vehicle shall comply with the laws, rules, and policies governing state vehicle use, including spending unit rules and policies.

(c) Prior to operating a state vehicle, each operator shall be required to take such training courses as may be required by the Board of Risk and Insurance Management, the Travel Management Office, the Fleet Management Division, and the spending unit.

(d) If any public employee or public official fails to comply with any rule or regulation for state vehicle use, the spending unit may require that the individual attend training, be restricted from using state vehicles, or be prohibited from using state vehicles: *Provided*, That nothing in this section authorizes the division to restrict the use of state vehicles except for those employees under its control.

§5A-12-7. Spending unit duties and responsibilities.

(a) Every spending unit shall report all vehicles and equipment requiring a state license plate, including those vehicles with a rating

of more than one ton, those requiring a commercial driver's license to operate, and all-terrain vehicles, as fixed assets in the centralized accounting system maintained by the Enterprise Resource Planning Board.

(b) Every spending unit that owns state vehicles shall annually affirm to the State Agency for Surplus Property on or before July 15 of each year, that the vehicles and assets reported to the centralized accounting system as required by §5A-12-7(a) of this code are accurate and current.

§5A-12-8. Fleet coordinators.

(a) Each spending unit shall name a fleet coordinator, who shall be responsible for the management and maintenance of state vehicle information, and for reporting state vehicle utilization reports to the division as required by this article and legislative rules promulgated pursuant thereto.

(b) Each spending unit shall provide to the division the name and contact information for the spending unit fleet coordinator.

(c) Each fleet coordinator is required to attend the Fleet Coordinator training provided by the Fleet Management Division.

(d) Each fleet coordinator shall be responsible for providing adequate training to each operator of a state vehicle within his or her spending unit.

§5A-12-9. Utilization of Vehicle Management Services; exemption.

(a) Each spending unit that owns, uses, or maintains a state vehicle shall utilize the vehicle management services provided by the Fleet Management Division for all state vehicles.

(b) Spending units may request an exemption from part or all of the services provided by the Fleet Management Division. The division shall review each request and may recommend approval of the request by the secretary. The division shall submit a legislative rule identifying each spending unit for which an

exemption has been approved, which rule shall further state the nature of the proposed exemption, and which services will be used, as well as the manner in which the spending unit will comply with all other requirements of this article, including the requirements to report certain information to the division: *Provided*, That no request for exemption pursuant to this section shall become effective without the enactment of a legislative rule pursuant to the provisions of §29A-3-1 *et seq.* of this code.

§5A-12-10. Annual reports by spending units.

(a) Each spending unit that owns or operates a state vehicle, rents vehicles for a state purpose, or reimburses for personal vehicle use, shall annually report the Fleet Management Division, beginning on or before October 31, 2018, and on or before October 31 each year thereafter, in the manner required by this article and by legislative rule.

(b) Each spending unit that owns or leases a state vehicle or rents or reimburses an employee for personal vehicle use, shall periodically compile and maintain the individual specific vehicle records of each state vehicle, and all records of vehicle rental and private vehicle use expenditures, for not less than three years, or as may be required by the division or the State Auditor pursuant to §5A-12-13 of this code.

§5A-12-11. Complaint process.

(a) The director shall provide a complaint process for use by the general public to report to the division issues relevant to the operation and maintenance of a state vehicle fleet. Complaints may be received by the division in writing, by telephone, or electronically: *Provided*, That the division shall review all complaints weekly, and report to the appropriate spending unit the information regarding the state vehicle in use by the spending unit, and shall describe the nature of the complaint, including, but not limited to mechanical problems, equipment failures, misuse, or illegal operation of a state vehicle.

(b) Each spending unit shall investigate each complaint it receives and provide an update to the division on a regular basis and at the conclusion of the investigation.

§5A-12-12. State vehicle fleet annual report.

(a) The Fleet Management Division shall maintain sufficient records and fleet coordinator reports to produce a State Vehicle Fleet Annual Report, regarding the maintenance and operation of the state vehicle fleet.

(b) On or before December 31, 2019 and each December 31 thereafter, the division shall submit the State Vehicle Fleet Annual Report to the Governor, and to the Joint Committee on Government and Finance, containing, at a minimum:

(1) The total number of state vehicles;

(2) The total number of vehicles operated by each spending unit;

(3) The total number of state vehicle miles driven, both in the aggregate and by spending unit;

(4) The total amount of fuel purchased, and the total expenditures for annual maintenance, repair, fuel expenditures, both in the aggregate and by spending unit;

(5) The total number of miles reimbursed for personal vehicle use and the amount reimbursed annually, both in the aggregate and by spending unit;

(6) The total number of vehicles owned and operated by the division, including information on the total miles driven, and the annual expenditures for maintenance, repair, and fuel;

(7) The total annual indirect costs of operating the state vehicle fleet, both in the aggregate and by spending unit;

(8) A summary of complaints received concerning state vehicle usage;

(9) A summary of the State Auditor's spot compliance audit report authorized pursuant to §5A-12-13 of this code;

(10) The operating revenue and expenses of the division; and

(11) Recommendations for any policy or statutory changes the director determines may be necessary to maintain accurate records of the state vehicle fleet, utilization of state vehicles, and the expenses necessary to maintain such vehicle fleet.

(c) An annual report produced in an electronic format complies with the reporting requirements of this article and shall be made available on the division website: *Provided*, That the division shall redact any personally identifiable or confidential information.

§5A-12-13. Spot compliance audits by the State Auditor.

(a) Beginning July 1, 2019, the State Auditor shall conduct spot compliance audits to monitor operator, spending unit, and fleet coordinator records and reports for accuracy and compliance with the record keeping provisions of this article. The State Auditor shall conduct a spot compliance audit on not less than 20 percent of the state vehicle fleet annually, in order to conduct spot compliance audits of all state vehicle records on a five-year cycle.

(b) A spending unit found to be noncompliant with the recordkeeping provisions of this article may be subject to further compliance monitoring as the State Auditor and director deem necessary.

(c) The State Auditor shall report to the division the findings of each spot compliance audit. Such reports shall list the spending units and fleet coordinators audited, and verify:

(1) That state vehicle drivers of the spending unit have complied with applicable training requirements and are keeping complete and accurate vehicle logs;

(2) That spending unit fleet coordinators have attended training, and are compiling and maintaining the state vehicle records required by this article; and

(3) The accuracy of fleet coordinator reporting in the manner consistent with the provisions of this article.

§5A-12-14. Legislative compliance audit.

On or before December 31, 2020, the Legislative Auditor, in accordance with §4-10-1 et seq. of this code, shall audit the division for state spending unit and fleet coordinator compliance with the reporting requirements and applicable provisions of this article. Such audit shall also include an evaluation of the data collected by the division to determine if the data being provided to the division in spending unit annual reports are sufficient to evaluate the state costs of owning, maintaining, and leasing state vehicles, and to evaluate vehicle use and expenditure trends among the spending units.

**CHAPTER 12. PUBLIC MONEYS AND SECURITIES.
ARTICLE 6D. WEST VIRGINIA ENTERPRISE
RESOURCE PLANNING BOARD.**

§12-6D-7. Establishing state vehicle fixed assets record keeping.

The West Virginia Enterprise Resource Planning Board shall, after consulting with the Fleet Management Division, established pursuant to §5A-12-1 et seq. of this code, and the Division of Motor Vehicles, pursuant to the authority in §17A-3-25, develop standard naming conventions for the title, registration, and other fixed asset information to be used in the identification of state vehicles in the system of record for fixed assets, and shall also designate the information to be entered by spending units into the centralized accounting system maintained by the West Virginia Enterprise Resource Planning Board, for the development and maintenance of an accurate and updated state vehicle inventory.

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF
REGISTRATION; ISSUANCE OF CERTIFICATES OF
TITLE.**

§17A-3-23. Registration plates to state, county, municipal and other governmental vehicles; use for undercover activities.

(a) Any motor vehicle designed to carry passengers, owned or leased by the state of West Virginia, or any of its departments, bureaus, commissions, or institutions, except vehicles used by the Governor, Treasurer, not to exceed 8 vehicles operated by investigators of the Office of the Attorney General, three vehicles per elected office of the Board of Public Works not otherwise specified, vehicles operated by the State Police, not to exceed five vehicles operated by the office of the Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the Division of Homeland Security and Emergency Management, vehicles operated by natural resources police officers of the Division of Natural Resources, not to exceed 10 vehicles operated by the arson investigators of the Office of State Fire Marshal, not to exceed two vehicles operated by the Division of Protective Services, not to exceed 16 vehicles operated by inspectors of the Office of the Alcohol Beverage Control Commissioner, vehicles operated by the West Virginia Wing of the Civil Air Patrol, and vehicles operated by probation officers employed under the Supreme Court of Appeals may not be operated or driven by any person unless it has displayed and attached to the front thereof, in the same manner as regular motor vehicle registration plates are attached, a plate of the same size as the regular registration plate, with white lettering on a green background bearing the words "West Virginia" in one line and the words "State Car" in another line, and the lettering for the words "State Car" shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: Provided, That beginning January 1, 2019, state vehicle license plates shall be gold with blue lettering.

The vehicle shall also have attached to the rear a plate bearing a number and any other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall also be green with the number in white : Provided, That beginning January 1, 2019, state vehicle license plates shall be gold with blue lettering.

(b) Registration plates issued to vehicles owned by counties shall be white on red with the word “County” on top of the plate and the words “West Virginia” on the bottom.

(c) Registration plates issued to a city or municipality shall be white on blue with the word “City” on top and the words “West Virginia” on the bottom.

(d) Registration plates issued to a city or municipality law-enforcement department shall include blue lettering on a white background with the words “West Virginia” on top of the plate and shall be further designed by the commissioner to include a law-enforcement shield together with other insignia or lettering sufficient to identify the motor vehicle as a municipal law-enforcement department motor vehicle. The colors may not be reversed and shall be of reflectorized material. The registration plates issued to counties, municipalities, and other governmental agencies authorized to receive colored plates hereunder shall be affixed to both the front and rear of the vehicles.

(e) (1) Registration plates issued to vehicles operated by county sheriffs shall be designed by the commissioner in cooperation with the sheriffs’ association with the word “Sheriff” on top of the plate and the words “West Virginia” on the bottom. The plate shall contain a gold shield representing the sheriff’s star and a number assigned to that plate by the commissioner. Every county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff, unless otherwise provided in this section, and a fee of \$10 for each vehicle submitted by July 1, 2002.

(2) Registration plates issued to vehicles operated by the West Virginia Wing of the Civil Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol and include the words “Civil Air Patrol” on the plate. The Civil Air Patrol shall provide the commissioner with a list of vehicles operated by the Civil Air Patrol, unless otherwise provided in this section, and a fee of \$10 for each new vehicle for which a Civil Air Patrol license plate is requested.

(f) The commissioner is authorized to designate the colors and design of any other registration plates that are issued without charge to any other agency or non-state government entity entitled to registration plates at no charge in accordance with the motor vehicle laws: Provided, That where the institutions of higher education opt to have their logo displayed on the state license plate, such institution shall bear any additional costs of those added features: Provided, however, That no public service districts or designated nongovernmental organizations shall be issued a license plate designated for vehicles owned or leased by the state of West Virginia, or any of its departments, bureaus, commissions, or institutions.

(g) Upon application, the commissioner is authorized to issue a maximum of five Class A license plates per applicant to be used by county sheriffs and municipalities on law-enforcement vehicles while engaged in undercover investigations.

(h) The commissioner is authorized to issue a maximum of five Class A license plates to be used on vehicles assigned to the Division of Motor Vehicles investigators for commercial driver examination fraud investigation and driver's license issuance fraud detection and fraud prevention.

(i) The commissioner is authorized to issue an unlimited number of license plates per applicant to authorized drug and violent crime task forces in the state of West Virginia when the chairperson of the control group of a drug and violent crime task force signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used only for official undercover work conducted by a drug and violent crime task force.

(j) The commissioner is authorized to issue 20 Class A license plates to the Criminal Investigation Division of the Department of Revenue for use by its investigators.

(k) The commissioner may issue a maximum of 10 Class A license plates to the Division of Natural Resources for use by natural resources police officers. The commissioner shall designate

the color and design of the registration plates to be displayed on the front and the rear of all other state-owned vehicles owned by the Division of Natural Resources and operated by natural resources police officers.

(l) The commissioner is authorized to issue an unlimited number of Class A license plates to the Commission on Special Investigations for state-owned vehicles used for official undercover work conducted by the Commission on Special Investigations.

(m) The commissioner is authorized to issue a maximum of two Class A plates to the Division of Protective Services for state-owned vehicles used by the Division of Protective Services in fulfilling its mission.

(n) The commissioner is authorized to issue Class A registration plates for vehicles used by the Medicaid Fraud Control Unit created by §9-7-7 of this code.

(o) The commissioner is authorized to issue Class A registration plates for vehicles used by the West Virginia Insurance Fraud Unit created by §33-41-8 of this code.

(p) No other registration plate may be issued for, or attached to, any state-owned vehicle.

(q) The Commissioner of Motor Vehicles shall have a sufficient number of both front and rear plates produced to attach to all state-owned cars. ~~The numbered registration plates for the vehicles shall start with the number five hundred and the commissioner shall issue consecutive numbers for all state-owned cars or leased vehicles.~~

(r) The commissioner shall, after consultation with the Fleet Management Division established pursuant to §5A-12-1 et seq. of this code and the Enterprise Resource Planning Board established pursuant to §12-6D-1 et seq. of this code, develop and adopt a standardized naming convention for the title, registration, and licensing of state vehicles, pursuant to §17A-3-23 and 7A-3-25 of this code. The naming convention adopted shall be consistent with

the naming convention adopted for the centralized accounting system as maintained by the Enterprise Resource Planning Board for the purpose of creating and maintaining an accurate and up to date inventory of the state vehicle fleet.

(s) It is the duty of each office, department, bureau, commission, or institution furnished any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle by any official or employee.

~~(s)~~ (t) The commissioner may issue special registration plates for motor vehicles titled in the name of the Division of Public Transit or in the name of a public transit authority as defined in this subsection and operated by a public transit authority or a public transit provider to transport persons in the public interest. For purposes of this subsection, “public transit authority” means an urban mass transportation authority created pursuant to ~~the provisions of~~ §8-27-1 *et seq.* of this code or a nonprofit entity exempt from federal and state income taxes under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large. The special registration plate shall be designed by the commissioner and shall display the words “public transit” or words or letters of similar effect to indicate the public purpose of the use of the vehicle. The special registration plate shall be issued without charge.

(u) Each green registration plate with white letters affixed to a state vehicle, and each corresponding title and registration certificate for all state vehicles, other than those vehicles with Class A registration plates as provided in this section, terminates at midnight on December 31, 2018. Each spending unit assigned a state vehicle that is required to display a state vehicle license plate and registration shall obtain a new title, new registration card, and new state vehicle license plate prior to January 1, 2019: *Provided*, That no state vehicle license plate shall be issued unless the spending unit has provided an affirmative statement under penalty of perjury that the vehicle is a state asset recorded in the central accounting system as maintained by the Enterprise Resource Planning Board, and the same has been verified by the commissioner, as required by §17A-3-25 of this code. When new

registrations are issued pursuant to this article and for subsequent, non-Class A registrations of state owned or leased vehicles, the state vehicle registration plate and certificate shall be valid for a period of not more than 24 months and shall be required to be renewed every two years.

(v) The commissioner is authorized to prepare and promulgate emergency rules, pursuant to §29A-3-1 et seq. of this code in order to implement amendments to this section.

(†) (w) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100. Magistrates have concurrent jurisdiction with circuit courts for the enforcement of this section.

§17A-3-25. State vehicle title, registration and relicensing project of 2018; emergency and legislative rules.

(a) On or before July 1, 2018, the commissioner shall coordinate with the Fleet Management Division established pursuant to §5A-12-1 et seq. of this code and the Enterprise Resource Planning Board established pursuant to §12-6D-1 et seq. of this code and other applicable agencies, to develop a standardized titling and registration system for state vehicles. To the extent practicable, the standardization of vehicle title, registration, and state vehicle license plates shall conform to the state's central accounting system maintained by the Enterprise Resource Planning Board. The standardization of state vehicle titles, registrations, and license plates, as described in this section, shall be known as the "State Vehicle Title, Registration, and Relicensing Project of 2018." Every spending unit shall comply with the provisions of this section, and §17A-3-23 of this code.

(b) The commissioner, in coordination with the Fleet Management Division, shall develop a standard system for identifying and recording the names of agencies, offices, or spending units to which each state vehicle is assigned, or registered, and such standard naming conventions shall be developed to align with the state's central accounting system, and

the centralized state vehicle inventory system. The commissioner shall propose legislative and emergency rules, pursuant to §29A-3-1 et seq. of this code, establishing those standard naming conventions for the registration, titling, and licensing of every state vehicle, and assigning by rule a list of the standardized naming conventions for each spending unit for the purpose of issuing new title, registration, and license plates to each state vehicle by December 31, 2018.

(c) Once the commissioner has promulgated legislative and emergency rules as authorized pursuant to subsection (b) of this section, and not later than September 1, 2018, the division shall begin to issue the standardized title, registration, and state vehicle license plates for all state vehicles.

(d) Any spending unit applying to license or relicense a state vehicle pursuant to this section shall include with the application an affirmative statement under the penalty of perjury that the vehicle is a state asset recorded in the central accounting system as maintained by the Enterprise Resource Planning Board before the commissioner is required to issue any motor vehicle registration plates: *Provided*, That for leased vehicles, the spending unit shall affirm to the commissioner that the vehicle is leased and not required to be recorded in the state central accounting system.

(e) The commissioner shall confirm that each vehicle for which an agency applies for a license, title, or registration is properly listed within the centralized accounting system as being a vehicle owned by a state agency before processing the application.

(f) The commissioner is authorized, by legislative and emergency rule, to establish a procedure whereby the commissioner shall reject the application for a state vehicle title, registration and state vehicle license plate if that application does not conform to the standard naming convention requirements. The commissioner shall provide by rule for the reasonable remedy, correcting of errors, or to compel compliance with the standard naming conventions.

(g) At midnight on December 31, 2018, all green state vehicle license plates with white lettering affixed to vehicles shall expire. The commissioner, in coordination with the Fleet Management Division, shall provide notice to each spending unit, and advertise as deemed appropriate, to inform the fleet coordinators, as defined in §5A-12-3 of this code, that such license plates expire and the procedure for being issued new titles, registrations, and license plates pursuant to this article. The head of each spending unit with state vehicles shall cooperate and comply with the requirements of the State Vehicle Title, Registration, and Relicensing Project of 2018, and the centralized accounting system.

(h) Upon receipt of the new title, registration, and license plates, each spending unit shall enter the appropriate information into the state's central accounting system maintained by the Enterprise Resource Planning Board, in such detail and specificity as required by the board, the Fleet Management Division established pursuant to §5A-12-1 et seq. of this code.

§17A-3-26. Enforcement; report.

(a) Beginning January 1, 2019, any state vehicle in this state with a green state license plate with white lettering is in violation of this article.

(b) After January 1, 2019, any law-enforcement officer who discovers a state vehicle with an expired state vehicle license plate shall issue a citation with a penalty of \$100 per violation. Upon payment of such penalty, notwithstanding court costs, the clerk of the court shall remit the amount of the penalty to the law-enforcement agency having brought the charge before the court.

(c) Any spending unit issued a citation pursuant to this section shall file a report with the Fleet Management Division within 30 days of the citation and describe the state vehicle by the vehicle identification number, the make, model, and year of the vehicle, the state vehicle license plate, and the date on which the license plate was renewed.

§17A-3-27. Compliance audit.

On or before December 31, 2019, the Legislative Auditor, in accordance with §4-10-1 et seq. of this code, shall audit the Division of Motor Vehicles for compliance with the State Vehicle Title, Registration, and Relicensing Project of 2018. The Legislative Auditor may make recommendations for future compliance monitoring of any spending unit found not in compliance with the project and make such recommendations for administrative penalties for noncompliance with the project.

CHAPTER 29B. FREEDOM OF INFORMATION.**ARTICLE 1. PUBLIC RECORDS.****§29B-1-4. Exemptions.**

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

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

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

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

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

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

(5) Information specifically exempted from disclosure by statute;

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

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

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

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

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases, and inventories of goods or materials collected or

assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

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

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

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

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

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

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

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

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

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

(20) Information related to applications under §61-7-4 of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided*: That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted: *Provided, however*, That information or other records exempted under this subdivision may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes; and

(21) Personal information of law-enforcement officers maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, “personal information” means a law-enforcement officer’s social security number, health information, home address, personal address, personal telephone numbers, and personal email addresses, and those of his or her spouse, parents, and children, as well as the names of the law-enforcement officer’s spouse, parents, and children.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term “terrorist act” means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.

The bill (Eng. Com. Sub. for H. B. 4015), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4023, Relating to the regulation of dialysis technicians.

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

Eng. House Bill 4025, Permitting reciprocity for licensure as a pharmacy technician.

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

Eng. Com. Sub. for House Bill 4027, Creating an education permit for allopathic physician resident.

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

Eng. House Bill 4178, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

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

Eng. Com. Sub. for House Bill 4197, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation.

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

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

On page two, section five, lines twenty-nine through thirty-four, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision, designated subdivision (2), to read as follows:

“(2) A nationally recognized training course in emergency cardiovascular care for telephonic cardiopulmonary resuscitation selected by the medical director of an emergency medical dispatch center. This training course shall incorporate protocols for out of hospital cardiac arrest and compression-only cardiopulmonary resuscitation and continuing education, as appropriate. The training requirements of this subdivision are effective not later than July 1, 2019. Persons employed subsequent to July 1, 2018, shall complete the training within one year of the date of employment; and”.

The bill (Eng. Com. Sub. for H. B. 4197), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4279, Relating to adult protective services system.

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

Eng. Com. Sub. for House Bill 4368, Relating to voluntary assignments of wages by state employees who have been overpaid.

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

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

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

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

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-3. Payment of wages by employers other than railroads; assignments of wages.

(a) Every person, firm or corporation doing business in this state, except railroad companies as provided in section one of this article, shall settle with its employees at least twice every month and with no more than 19 days between settlements, unless otherwise provided by special agreement, and pay them the wages due, less authorized deductions and authorized wage assignments, for their work or services.

(b) Payment required in subsection (a) of this section shall be made:

(1) In lawful money of the United States;

(2) By cash order as described and required in §21-5-4 of this code;

(3) By deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution. The term "payroll card account" means an account in a federally insured depository institution that is directly or indirectly established through an employer and to which electronic fund transfers of the employee's wages, salary, commissions or other compensation are made on a recurring basis, whether the account is operated or managed by the employer, a third person payroll processor, a depository institution or another person. "Payroll card" means a card, code or combination thereof

or other means of access to an employee's payroll card account, by which the employee may initiate electronic fund transfers or use a payroll card to make purchases or payments. Payment of employee compensation by means of a payroll card must be agreed upon in writing by both the person, firm or corporation paying the compensation and the person being compensated; or

(4) By any method of depositing immediately available funds in an employee's demand or time account in a bank, credit union or savings and loan institution that may be agreed upon in writing between the employee and such person, firm or corporation, which agreement shall specifically identify the employee, the financial institution, the type of account and the account number: *Provided*, That nothing herein contained shall be construed in a manner to require any person, firm or corporation to pay employees by depositing funds in a financial institution.

(c) If, at any time of payment, any employee ~~shall be~~ is absent from his or her regular place of labor and ~~shall~~ does not receive his or her wages through a duly authorized representative, he or she ~~shall be~~ is entitled to payment at any time thereafter upon demand upon the proper paymaster at the place where his or her wages are usually paid and where the next pay is due.

(d) Nothing herein contained ~~shall~~ may affect the right of an employee to assign part of his or her claim against his or her employer except as in subsection (e) of this section.

(e) No assignment of or order for future wages ~~shall~~ may be valid for a period exceeding one year from the date of the assignment or order. An assignment or order shall be acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgments, and any order or assignment shall specify thereon the total amount due and collectible by virtue of the same and, unless otherwise provided for in subsection (f) of this section, three-fourths of the periodical earnings or wages of the assignor ~~shall be~~ are all times ~~be~~ exempt from such assignment or order and no assignment or order ~~shall be~~ is valid which does not so state upon its face: *Provided*, That no such order or assignment ~~shall be~~ is valid unless the written acceptance

of the employer of the assignor to the making thereof is endorsed thereon: *Provided, however,* That nothing herein contained ~~shall~~ may be construed as affecting the right of employer and employees to agree between themselves as to deductions to be made from the payroll of employees.

(f) If an employee of the state has been overpaid wages, including incremental salary increases pursuant to §5-5-2 of this code, an employee may voluntarily authorize a written assignment or order for future wages to the state to repay the overpayment in an amount not to exceed three-fourths of his or her periodical earnings or wages.

The bill (Eng. Com. Sub. for H. B. 4368), as amended, was then ordered to third reading.

Eng. House Bill 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

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

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

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

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-23. Certificate nominations; requirements and control; penalties.

(a) Groups of citizens having no party organization may nominate candidates who are not already candidates in the primary election for public office otherwise than by conventions or primary elections. In that case, the candidate or candidates, jointly or severally, shall file a nomination certificate in accordance with the provisions of this section and the provisions of §3-5-24 of this code.

(b) The person or persons soliciting or canvassing signatures of duly qualified voters on the certificate or certificates, may solicit or canvass duly registered voters residing within the county, district, or other political division represented by the office sought, but must first obtain from the clerk of the county commission credentials which must be exhibited to each voter canvassed or solicited, which credentials may be in the following form or effect:

State of West Virginia, County of, ss:

This certifies that the holder of this credential is hereby authorized to solicit and canvass duly registered voters residing in (here place the county, district or other political division represented by the office sought) to sign a certificate purporting to nominate (here place name of candidate heading list on certificate) for the office of and others, at the general election to be held on, 20.....

Given under my hand and the seal of my office this day of, 20.....

.....

Clerk, county commission of County.

The clerk of each county commission, upon proper application made as herein provided, shall issue such credentials and shall keep a record thereof.

(c) The certificate shall be personally signed by duly registered voters, in their own proper handwriting or by their marks duly witnessed, who must be residents within the county, district, or other political division represented by the office sought wherein the canvass or solicitation is made by the person or persons duly authorized. The signatures need not all be on one certificate. The number of signatures shall be equal to not less than one percent of the entire vote cast at the last preceding general election for the office in the state, district, county, or other political division for which the nomination is to be made, but in no event shall the number be less than 25. The number of signatures shall be equal to

not less than one percent of the entire vote cast at the last preceding general election for any statewide, congressional, or presidential candidate, but in no event shall the number be less than 25. Where two or more nominations may be made for the same office, the total of the votes cast at the last preceding general election for the candidates receiving the highest number of votes on each ticket for the office shall constitute the entire vote. A signature on a certificate may not be counted unless it be that of a duly registered voter of the county, district, or other political division represented by the office sought wherein the certificate was presented.

(d) The certificates shall state the name and residence of each of the candidates; that he or she is legally qualified to hold the office; that the subscribers are legally qualified and duly registered as voters and desire to have the candidates placed on the ballot; and may designate, by not more than five words, a brief name of the party which the candidates represent and may adopt a device or emblem to be printed on the official ballot. All candidates nominated by the signing of the certificates shall have their names placed on the official ballot as candidates, as if otherwise nominated under the provisions of this chapter.

The Secretary of State shall prescribe the form and content of the nomination certificates to be used for soliciting signatures.

Offices to be filled by the voters of more than one county shall use separate petition forms for the signatures of qualified voters for each county.

Notwithstanding any other provision of this code to the contrary, a duly registered voter may sign the certificate provided in this section and may vote for candidates of his or her choosing in the corresponding primary election.

(e) The Secretary of State, or the clerk of the county commission, as the case may be, may investigate the validity of the certificates and the signatures thereon. If, upon investigation, there is doubt as to the legitimacy and the validity of certificate, the Secretary of State may ask the Attorney General of the state, or the clerk of the county commission may ask the prosecuting attorney

of the county, to institute a quo warranto proceeding against the nominee by certificate to determine his or her right to the nomination to public office and upon request being made, the Attorney General or prosecuting attorney shall institute the quo warranto proceeding. The clerk of the county commission shall, at the request of the Secretary of State or the clerk of the circuit court, compare the information from any certificate to the county voter registration records in order to assist in determining the validity of any certificates.

(f) For the purposes of this section, any person who, at the time of the filing of the nomination certificate or certificates, is registered and affiliated with a recognized political party as defined in §3-1-8 of this code may not become a candidate for political office by virtue of the nomination-certificate process as set forth in this section.

(g) For the purposes of this section, any person who was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code may not, after failing to win the nomination of his or her political party, become a candidate for the same political office by virtue of the nomination-certificate process as set forth in this section.

~~(f)~~ (h) In addition to penalties prescribed elsewhere for violation of this chapter, any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000, or confined in jail not more than one year, or both fined and ~~imprisoned~~ confined. Provided, That a criminal penalty may not be imposed upon anyone who signs a nomination certificate and votes in the primary election held after the date the certificate was signed.

The bill (Eng. H. B. 4434), as amended, was then ordered to third reading.

Eng. House Bill 4462, Allowing off duty members and officers of the department of public safety to guard private property.

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

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

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

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-18. Officers or members performing failure to perform duties; ~~for private persons~~ general penalty; providing extraordinary police or security services by contract.

(a) Any officer or member of the ~~department of public safety~~ State Police who ~~hires himself or herself to any person, firm or corporation to guard private property, or who demands or receives from any person, firm or corporation any money or other thing of value as a consideration for the performance of, or the failure to perform, his or her duties under the regulations~~ rules of the superintendent and the provisions of this article, ~~shall be~~ is guilty of a felony, and, upon conviction thereof, shall be ~~confined imprisoned in the penitentiary~~ a correctional facility for not less than one nor more than five years, and any such officer or member of the ~~department of public safety~~ State Police who violates any other provisions of this article, for which no other penalty is expressly provided, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$25 nor more than \$200, or ~~imprisoned~~ confined in the county jail for not more than four months, or both fined and ~~imprisoned~~ confined.

(b) Notwithstanding any other provision of this article to the contrary, the superintendent may contract with public, quasi-public, military, or private entities to provide extraordinary police or security services by the ~~department~~ State Police when it is determined by the superintendent to be in the public interest. The superintendent shall assign ~~such~~ the personnel, equipment, or facilities as ~~is deemed~~ he or she considers necessary and the ~~department~~ State Police shall be reimbursed for the wages,

overtime wages, benefits, and costs of providing the contract services as negotiated between the parties. The compensation paid to ~~public safety~~ State Police personnel by virtue of contracts provided for in this section shall be paid from a special account and shall be excluded from any formulation used to calculate an employee's benefits. All requests for obtaining extraordinary police or security services shall be made to the superintendent in writing and shall explain the funding source and the authority for making ~~such a~~ the request. ~~No~~ An officer or member of the ~~department shall be~~ State Police may not be required to accept any assignment made pursuant to this subsection. Every officer or member assigned to duty ~~hereunder~~ under this section shall be paid according to the hours and overtime hours actually worked notwithstanding that officer's or member's status as exempt personnel under the Federal Labor Standards Act or applicable state statutes. Every contract entered into under this subsection shall contain the provision that in the event of public disaster or emergency where the reassignment to official duty of all officers and members is required, neither the ~~department~~ State Police nor any of its officers or members ~~shall be~~ are liable for any damages incurred as the result of the reassignment. Further, any entity contracting with the ~~department of public safety~~ State Police, an officer, or member under this section shall also agree as part of that contract to hold harmless and indemnify the state, ~~department of public safety~~ State Police and its personnel from any liability arising out of employment under the contract. The superintendent ~~is authorized to promulgate~~ may propose legislative rules ~~and regulations for promulgation~~ in accordance with §29A-3-1 *et seq.* of this code, relating to the implementation of any contracts made under this subsection: *Provided*, That ~~said regulations~~ the rules shall expressly prohibit private employment of officers or members in circumstances involving labor disputes. Notwithstanding any provision of this article to the contrary, an officer or member may contract to work for a private person or entity during his or her off duty hours: *Provided, however* That the contract work may not be a type prohibited by this code or the rules of the State Police on the locations and the nature of services provided.

The bill (Eng. H. B. 4462), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4478, Authorizing public schools to distribute excess food to students.

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

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

On page two, section five, line thirty-six, after the word “made” by striking out the word “food”.

The bill (Eng. Com. Sub. for H. B. 4478), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4502, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

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

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

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

ARTICLE 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.

§62-1D-8. County prosecuting attorney or duly appointed special prosecutor may apply for order authorizing interception.

The prosecuting attorney of any county or duly appointed special prosecutor may apply to one of the designated circuit judges referred to in §62-1D-7 of this code and the judge, in accordance with the provisions of this article, may grant an order authorizing

the interception of wire, oral, or electronic communications by an officer of the investigative or law-enforcement agency when the prosecuting attorney or special prosecutor has shown reasonable cause to believe the interception would provide evidence of the commission of: (1) Kidnapping or abduction as defined and prohibited by the provisions of §61-2-14 and §61-2-14a of this code and including threats to kidnap or demand ransom as defined and prohibited by the provisions of §61-2-14c of this code; (2) any offense included and prohibited by §25-4-11 of said code, §61-5-8, §61-5-9 and §61-5-10 or §62-8-1 of ~~said this~~ this code to the extent that any of said sections provide for offenses punishable as a felony; (3) ~~dealing, transferring or trafficking in any controlled substance or substances in the felonious violation~~ felony violations of §60A-1-101 *et seq.* of this code; (4) ~~of any offense included and prohibited by~~ violations of §61-14-1 *et seq.* of this code; (5) violations of §61-2-1 of this code; (6) violations of §61-2-12 of this code; (7) felony violations of §61-8B-1 et seq. of this code; (8) violations of §61-1-1 of this code; (9) violations of §61-13-3 of this code; or (10) any aider or abettor to any of the ~~foregoing~~ offenses referenced in this section or any conspiracy to commit any of the ~~foregoing~~ offenses referenced in this section if any aider, abettor, or conspirator is a party to the communication to be intercepted.

The bill (Eng. Com. Sub. for H. B. 4502), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4509, Relating to the establishment of substance abuse treatment facilities.

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

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

On page one, section one, line three, after the words “throughout the” by inserting the words “state which the”.

The bill (Eng. Com. Sub. for H. B. 4509), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4522, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

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

At the request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Finance committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 4622, Relating to authorizing legislative rules regarding higher education.

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

Eng. Com. Sub. for House Bill 4016, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

Eng. Com. Sub. for House Bill 4035, Creating a legislative coalition to study and report to the Legislature on palliative care.

Eng. Com. Sub. for House Bill 4042, Redefining school zone to facilitate placement of school zone signs.

Eng. House Bill 4183, Relating generally to standardized testing requirements for nonpublic schools.

Eng. Com. Sub. for House Bill 4275, Relating to the law-enforcement authority of the director and officers of the division of protective services.

Eng. Com. Sub. for House Bill 4400, Relating to the West Virginia Physicians Mutual Insurance Company.

And,

Eng. Com. Sub. for House Bill 4546, Relating to where an application for a marriage license may be made.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Palumbo, Romano, Ojeda, Clements, Karnes, and Unger.

At the request of Senator Unger, unanimous consent being granted, the Senate stood in observance of a moment of silence in recognition of Bonita Schreckengost, a substitute teacher who was seriously injured in a car accident on February 23, 2018.

Remarks were made by Senator Beach.

At the request of Senator Beach, and by unanimous consent, the Senate stood in observance of a moment of silence in recognition of the passing of the Honorable Stephen L. Cook, a former senator from the fourteenth district.

Remarks were made by Senators Trump and Plymale.

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

Remarks were made by Senator Smith.

Senator Romano called attention to Saturday, March 3, 2018, being the birthday of the senator from Tucker and on behalf of the Senate extended felicitations and good wishes to Senator Smith, with Senator Romano leading the members in singing "Happy Birthday".

Remarks were made by Senators Unger, Blair, and Woelfel.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, the Senate recessed until 5 p.m. today.

The Senate reconvened at 6:33 p.m. today and, without objection, returned to the third order of business.

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

Eng. Com. Sub. for Senate Bill 451, Relating generally to hunting and fishing.

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

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

On page three, section five, line thirty-five, by striking out the word “handgun” and inserting in lieu thereof the word “firearm”;

On page three, section five, line forty, after the word “in” by striking out the word “a”;

On page three, section five, line forty, after the word “park” by striking out the comma and inserting in lieu thereof the word “or”;

On page three, section five, line forty, after the word “facilities” by striking out the comma;

On page seven, section nine, line eight, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”;

On page seven, section nine, line twelve, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”;

On page seven, section nine, line sixteen, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 451—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner's permission; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one's bare hands; and making technical changes.

On motion of Senator Trump, the following amendment to the House of Delegates amendments to the bill was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 451—A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting

the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner's permission; requiring crossbows and bows be cased when in a motor vehicle during certain times; prohibiting nocked bows from being transported in a motor vehicle; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one's bare hands; and making technical changes.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 451, as amended, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 451 pass?"

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

The nays were: Sypolt—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 451) passed with its Senate amended title.

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

The Senate proceeded to the fourth order of business.

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 2028, Relating to the venue for suits and other actions against the state.

And reports the same back with the recommendation that it 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

Eng. Com. Sub. for House Bill 4336, Updating the schedule of controlled substances.

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.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Eng. Com. Sub. for House Bill 4401, Relating to the registration of business.

And has amended same.

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

Respectfully submitted,

Craig Blair,
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 4453, Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review.

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

Senator Weld, from the Committee on Military, submitted the following report, which was received:

Your Committee on Military has had under consideration

House Concurrent Resolution 27, Making Grafton's Annual Memorial Day Parade the Official State Memorial Day Parade.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Ryan W. Weld,
Chair.

The Senate again proceeded to the sixth order of business.

At the request of Senator Trump, and by unanimous consent, Senator Trump offered the following resolution from the floor:

Senate Concurrent Resolution 51—Extending the Committee of Conference relating to consideration of Engrossed Committee Substitute for House Bill 4013, *Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.*

Resolved by the Legislature of West Virginia:

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three days for the express purpose of consideration of matters of disagreement between the two houses as to extending the Committee of Conference relating to consideration of Engrossed Committee Substitute for House Bill 4013, *Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.*

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

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

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

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 6:45 p.m., the Senate recessed until 7:15 p.m. tonight.

The Senate reconvened at 7:58 p.m. tonight and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, adoption as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Senate Concurrent Resolution 51, Extending conference committee relating to Engrossed Committee Substitute for HB 4013.

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

The following House of Delegates amendment to the resolution was reported by the Clerk:

On page one, in the Resolved clause, by striking out the word “three” and inserting in lieu thereof the word “one”.

On motion of Senator Trump, the Senate concurred in the House of Delegates amendment to the resolution.

The question being on the adoption of the resolution (S. C. R. 51), as amended, the same was put and prevailed.

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

The Senate again proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 152, Budget Bill.

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

Com. Sub. for Senate Bill 152 (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Blair, unanimous consent being granted, the bill (Com. Sub. for S. B. 152) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Blair, the bill was rereferred 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

Eng. Com. Sub. for House Bill 4618, Relating to the authority of the Division of Protective Services.

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.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 8:03 p.m., the Senate adjourned until tomorrow, Tuesday, March 6, 2018, at 11 a.m.

TUESDAY, MARCH 6, 2018

The Senate met at 11:35 a.m.

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

Prayer was offered by Pastor Dan Londeree, Pea Ridge Baptist Church, Huntington, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Mark R. Maynard, a senator from the sixth district.

Pending the reading of the Journal of Monday, March 5, 2018,

At the request of Senator Sypolt, 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 concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 73, Modifying crime of fleeing from scene of accident.

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

concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 110, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

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

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

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

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of §11-16-1 *et seq.* of this code or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

(1) Revoke the licensee's license;

(2) Suspend the licensee's license;

(3) Place the licensee on probationary status for a period not to exceed 12 months; and

(4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund

designated the Alcohol Beverage Control Enforcement Fund, which is hereby ~~created~~ continued. All moneys collected, received, and deposited in the Alcohol Beverage Control Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, and shall not be treated by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end of each fiscal year all funds in the Alcohol Beverage Control Enforcement Fund in excess of \$20,000 shall be transferred to the General Revenue Fund.

(c) In addition to the grounds for revocation, suspension, or other sanction of a license set forth in subsection (a) of this section, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer, or gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee of any violation of the laws of this state or of the United States relating to prostitution, or the sale, possession, or distribution of narcotics or controlled substances, shall be mandatory grounds for revocation of the licensee's license for a period of at least one year.

(d) A licensee shall notify, in a timely manner, emergency medical services or law enforcement if a licensee knows or has reason to know of a life-threatening medical emergency occurring on the licensed premises. In addition to the grounds for revocation, suspension, or other sanction of a license set forth in this section, the commissioner may, in his or her discretion, revoke, suspend, or otherwise sanction a licensee for failing to comply with the provisions of this subsection.

(e) If a life-threatening medical emergency occurs on a licensee's private premises requiring notification of emergency medical services or law enforcement under subsection (d) of this section, the licensee shall notify the Alcohol Beverage Control Administration within 48 hours of the emergency's occurrence. The commissioner may, in his or her discretion, revoke, suspend, or otherwise sanction a licensee for failing to comply with the 48-hour notification requirement.

(f) As used in this section, a life-threatening medical emergency includes, but is not limited to, respiratory distress or cessation of breathing, severe chest pains, shock, uncontrolled bleeding, poisoning, prolonged unconsciousness, overdose, any complaint or observation which indicates significant head or spinal injury, and life-threatening physical injury caused by a crime of violence against the person occupying or emanating from the licensed premises.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 110—A Bill to amend and reenact §60-7-13 of the Code of West Virginia, 1931, as amended, relating generally to private club licensees; continuing Alcohol Beverage Control Enforcement Fund; requiring a private club licensee to timely notify emergency medical services or law enforcement of a life-threatening medical emergency occurring on the licensee's premises; authorizing sanctions against licensees' failing to notify such personnel as required; requiring a licensee to notify the Alcohol Beverage Control Administration within 48 hours of the occurrence of a life-threatening emergency; permitting the commissioner to sanction a licensee for failing to comply with the 48-hour notification requirement; and providing examples of life-threatening medical emergencies.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 110, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 110) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced that that body had receded from its amendments to, and the passage as amended by deletion, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 134, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 307, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section one, lines nineteen and twenty, by striking out the words “as regulated by the provisions of §29-26-1 *et seq.* of this code nonprofit service organization” and inserting in lieu thereof the words “and nonprofit service organizations”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 307, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 307) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 327, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

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

Eng. Senate Bill 346, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section seven, line one, by striking out “§20-3-1 *et seq.*” and inserting in lieu thereof “§20-2B-3”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 346, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 346) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 351, Permitting ballot commissioners serve while candidates for certain offices.

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

Eng. Com. Sub. for Senate Bill 395, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

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

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

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

ARTICLE 1. GENERAL POLICY AND PURPOSE.

§22B-1-9. General provisions for judicial review.

(a) Any person, or the Secretary, as the case may be, adversely affected by an order made and entered by a board after an appeal hearing, held in accordance with the provisions of this chapter, is entitled to judicial review thereof. All of the provisions of §29A-5-4 of this code apply to and govern the review with like effect as if the provisions of that section four were set forth *in extenso* in this section, with the modifications or exceptions set forth in this chapter: *Provided*, that the exceptions set forth in §22B-2-3, §22B-3-3 and §22B-4-3 apply.

(b) The filing of a petition of appeal under the provisions of this chapter does not automatically stay or suspend the effectiveness or execution of the order, permit or official action pending appeal. The board shall file with the clerk of the court wherein the petition for appeal is filed all papers, documents, evidence and other records comprising the complete record in the case, or certified copies thereof, as were before the board at the time of the entry of the order from which the appeal is taken.

(c) Notwithstanding any provisions of this code to the contrary, the Secretary may employ in-house legal counsel to perform all legal services for the Department and Secretary or any director, chief or division therein in all proceedings made under the provisions of this chapter, including those in any administrative

proceeding or before any state or Federal court. Additionally, the Secretary may call upon the Attorney General for any legal assistance and representation as provided by law.

ARTICLE 2. AIR QUALITY BOARD.

§22B-2-3. Judicial review of air quality board orders.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of ~~said that~~ section nine were set forth *in extenso* in this section, with the following modifications or exceptions:

(~~1~~ a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition for review shall be filed in the ~~circuit court of Kanawha County~~ Supreme Court of Appeals within 30 days of the board's order: *Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;* and

(~~2~~ b) As to all other cases, the petition shall be filed in the circuit court of the county wherein the alleged statutory air pollution complained of originated or in Kanawha County upon agreement between the parties.

ARTICLE 3. ENVIRONMENTAL QUALITY BOARD.

§22B-3-3. Judicial review.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of ~~said that~~ section nine were set forth *in extenso* in this section, with the following modifications or exceptions:

(~~1~~ a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition shall be filed in the ~~circuit court of Kanawha County~~ Supreme Court of Appeals within 30 days of the board's order: *Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;*

(2 b) As to cases involving an order revoking or suspending a permit, the petition shall be filed in the circuit court of Kanawha County; and

(3 c) As to cases involving an order directing that any and all discharges or deposits of solid waste, sewage, industrial wastes or other wastes, or the effluent therefrom, determined to be causing pollution be stopped or prevented or else that remedial action be taken, the petition shall be filed in the circuit court of the county in which the establishment is located or in which the pollution occurs.

ARTICLE 4. SURFACE MINE BOARD.

§22B-4-3. Judicial review.

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of ~~that~~ said section ~~nine~~ were set forth *in extenso* in this section. ~~except the petition shall be filed in the circuit court of Kanawha County or the county in which the surface mining operation is located~~ with the following modifications or exceptions:

(a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition shall be filed in the Supreme Court of Appeals within 30 days of the board's order: *Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;*

(b) As to all other cases, the petition shall be filed in the circuit court of Kanawha County or in the county wherein the surface mining operation is located.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 395—A Bill to amend and reenact §22B-1-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22B-2-3 of said code; to amend and reenact

§22B-3-3 of said code; and to amend and reenact §22B-4-3 of said code, all relating to the general provisions for judicial review of final orders of various environmental boards; requiring petition be filed within 30 days of entry of the final order; providing that appeal does not automatically stay any final order or action approved by a board; authorizing the chief or director to employ outside legal counsel without approval of the Attorney General; providing that decisions of the Air Quality Board, Environmental Quality Board, and Surface Mine Board denying an application for a permit, or approving or modifying the terms and conditions of a permit may be directly appealed to the Supreme Court of Appeals; and providing for exceptions to this right of direct appeal.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 395, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 395) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 395) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 397, Creating crime of impersonating blind or disabled person.

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

Eng. Senate Bill 539, Increasing limit for settling claims against DOH.

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

Eng. Com. Sub. for Senate Bill 561, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property.

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

Eng. Com. Sub. for Senate Joint Resolution 12, No Constitutional right to abortion Amendment.

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

Eng. Com. Sub. for House Bill 2483, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Trump, Weld, and Woelfel.

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

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

Eng. Com. Sub. for House Bill 2693, Relating to state ownership of wildlife.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Smith, Maynard, and Baldwin.

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

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

Eng. Com. Sub. for House Bill 4169, Requiring certain establishments and facilities to post human trafficking assistance notices.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

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

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Rucker, Azinger, and Beach.

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

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

Eng. Com. Sub. for House Bill 4207, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. Com. Sub. for House Bill 4268, Co-tenancy Modernization and Majority Protection Act.

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

Eng. House Bill 4402, Relating to the prevention of sexual abuse of children.

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

Eng. House Bill 4410, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

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

Eng. House Bill 4436, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

Eng. Com. Sub. for House Bill 4444, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

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

Eng. House Bill 4624, Relating to West Virginia coordinate systems.

Executive Communications

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, submitting the annual probation and parole report, which was received:

Jim Justice
Governor of West Virginia

March 5, 2018

EXECUTIVE MESSAGE NO. 3 **2018 REGULAR SESSION**

The Honorable Mitch Carmichael
President, Senate of West Virginia
State Capitol, Rm 228M
Charleston, West Virginia 25305

Dear Mr. President:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of January 13, 2017 through March 5, 2018.

Very truly yours,

Jim Justice
Governor

cc: Lee Cassis, Senate of West Virginia
Division of Archives and History

Senator Carmichael (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, regarding annual reports, which communication was received and filed with the Clerk:

Jim Justice
Governor of West Virginia

March 5, 2018

Executive Message 4
2018 Regular Session

The Honorable Mitch Carmichael
President, West Virginia State Senate
State Capitol, Rm 229M
Charleston, WV 25305

Dear Mr. President:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

Accountancy, West Virginia Board of; Annual Report for preceding fiscal periods ending June 30, 2017 and June 30, 2016

Administration, West Virginia Department of; Public Records Management and Preservation Act Annual Report

Aeronautics Commission- WV Department of Transportation, West Virginia; 2017 Annual Report

Agriculture, West Virginia Department of; 2017 Annual Report

Alcohol Beverage Control Administration, West Virginia; Annual Report FY 2017

Architects, West Virginia Board of; Annual Report FY 2016 and FY 2017

Attorney General's Office, West Virginia; 2017 Annual Report on the Activities of the Consumer Protection and Antitrust Division

Barbers and Cosmetologists, Board of; 2017 Annual Report

Barbers and Cosmetologists, Board of; 2017 Annual Report

Charles Stewart Mott Foundation; 2017 Annual Report

Chiropractic Examiners, West Virginia Board of; Biennium Covering Activities during the period of July 1, 2015 – June 30, 2017

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2017 Annual Report

Contractors Association of West Virginia; 2017 Annual Report

Corrections, West Virginia Division of; Annual Report: FY 2017

Counseling, West Board of; 2015-2017 Annual Report

Dentistry, West Virginia Board of; Annual Report

Early Care and Education Child Care Provider, West Virginia Department of Health and Human Resources; SFY 2017 Early Care and Education Child Care Provider Annual Report

Energy, West Virginia Office of; Annual Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of;
Quarterly Report

Family Protection Services Board; FY 2016

Financial Institutions, West Virginia Division of; 116th Annual
Report of Financial Institutions

Fire Commission, West Virginia State; Annual Report 2017

Forestry, West Virginia Division of; 2017 Logging Sediment
and Control Act Annual Report

Funeral Service Examiners, State of West Virginia Board of;
Governor's Report July 1, 2015-June 30, 2017

Health and Human Resources Bureau for Public Health, West
Virginia Department of; 2017 Report to the Governor WV
Public Water System Capacity Development Program
September 30, 2017

Huntington Museum of Art; FY 2015 & 2016 Annual Report

Independent Living Council, West Virginia State; FY 2016-
October 1, 2017

Insurance Commissioner, State of West Virginia Offices of the;
2017 Annual Malpractice Report

Insurance Commissioner, West Virginia Offices of the; Annual
Report on the activities of the Office of the consumer advocate
at the WV Insurance Commission

Insurance Commissioner, West Virginia Offices of the; Annual
Report 2016

Interstate Commission for Adult Offender Supervision- WV
Division of Corrections; FY 2017 Annual Report

Interstate Mining Compact Commission; IMCC 2016 Annual
Report

James “Tiger” Morton Catastrophic Illness Commission; 2017 Annual Report

Justice and Community Services, West Virginia Division of; 1. Justice Reinvestment Initiative 2. Community Corrections Subcommittee 3. Sexual Assault Forensic Examination Commission 4. Law Enforcement Professional Standard Subcommittee 5. Juvenile Justice Subcommittee

Juvenile Services, West Virginia Division of; Annual Report 2017

Legislative Claims Commission; West Virginia; Report of Legislative Claims Commission for December 2017

Legislative Claims Commission; West Virginia; Supplemental Report of the Legislative Claims Commission for December 2017

Library Commission, West Virginia; 2017 Public Library Facilities Assessment

Lottery, West Virginia; Comprehensive Annual Financial Report for Fiscal Years Ended June 30, 2017 and 2016

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; 2017 Annual Report

Medicine, State of West Virginia Board of; Annual Report for the Biennium of July 1, 2015-June 30, 2017

Mid-Ohio Valley Regional Council; Annual Report July 1, 2016-June 30,2017

Municipal Bond Commission, West Virginia; Annual Summary of Receipts & Disbursements July 1, 2016-June 30, 2017

Municipal Home Rule Pilot Program, West Virginia; Summary Report 2017

Natural Resources, West Virginia Division of; 2017 Annual Report

Natural Resources, West Virginia Division of; 2016-2017 West Virginia Division of Natural Resources Annual Report

Occupational Therapy, West Virginia Board of; FY 2016/2017 Annual Report

Ohio River Valley Water Sanitation Commission; 2017 Annual Report

Osteopathic Medicine, West Virginia School of; Annual Investment Report

Personnel, West Virginia Division of; FY 2017 Annual Report

Pharmacy, West Virginia; Annual Report

Privacy Office, West Virginia State; 2017 Annual Report

Public Employees Grievance Board; 2017 Annual Report

Public Service Commission Consumer Advocate Division, State of West Virginia; Consumer Advocate Division 2018 Annual Report

Public Service Commission of West Virginia; Public Service Commission's Management Summary Report/Electric and Gas Supply & Demand Forecast

Regional Jail and Correctional Facility Authority, West Virginia; Annual Report FY 2017

Regional Planning and Development Councils, West Virginia; Return on Investment Report

Regional Planning and Development Councils, West Virginia; Annual Report for Biennium of July 1, 2015- June 30, 2017

Registered Nurses, West Virginia Board of; Annual Report of the Biennium July 1, 2015-June 30, 2017

Rehabilitation Services, Division of; 2016 Annual Report

Report of the WV Judicial Compensation Commission; Annual Report

Ron Yost Personal Assistance Services (RYPAS) Board; 2017 Annual Report July 1, 2016-June 30, 2017

Sanitarians, West Virginia State Board of; 2017 Annual Report

Southern States Energy Board; 2017 Financial Statements and Required Communications

State Athletic Commission; Annual Report for Calendar Years 2016 and 2017

State of West Virginia Department of Administration Public Defender Services; Public Defender Services Annual Report Fiscal Year 2017

Tax Department, West Virginia State; West Virginia Fireworks Safety Fee Report July 2016-December 2017

Tax Department, West Virginia State; Fifty-Second Biennial Report, originally published in October 2017. This revision is inclusive of corrected annual revenues for the Wine Liter Tax for the 2016 and 2017 fiscal years

Tax Department, West Virginia State; Tax Credit Review and Accountability Report

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report

Veterinary Medicine, West Virginia Board of; Revised Biennium Report 2016 and 2017

Water Development Authority, West Virginia; 2017 Annual Report

Women's Commission, West Virginia; 2017 Annual Report

Youth Services, West Virginia Department of Health and Human Resources-West Virginia; West Virginia Youth Services Annual Report

Sincerely,

Jim Justice
Governor

cc: Lee Cassis, Clerk, West Virginia State Senate
Division of Culture and History

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

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

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

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

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

And,

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

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

Respectfully submitted,

Craig Blair,
Chair.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 11:55 a.m. today:

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

The Senate proceeded to the sixth order of business.

Senators Drennan, Plymale, Boso, and Stollings offered the following resolution:

Senate Concurrent Resolution 52—Requesting the Division of Highways name bridge number 40-64-36.24, EB-WB, (40A067, 40A069), locally known as Cow Creek Road Bridge, carrying Interstate 64 over Cow Creek Road in Putnam County, the “Deputy Sheriff Jonathan Janey Memorial Bridge”.

Whereas, Jonathan Wayne Janey was born on March 2, 1957, in South Charleston, West Virginia; and

Whereas, Jonathan Wayne Janey was a lifelong resident of Putnam County, West Virginia, and became a deputy in the Putnam County Sheriff’s Office in 1980. He dutifully served the people of his community for nine years; and

Whereas, In August 1989, Deputy Jonathan Janey received information that a house located on Cow Creek Road in Putnam County may be targeted for arson and he conducted a stakeout of this residence; and

Whereas, During the night of his stakeout, he saw a man enter the house carrying two jugs and the man spread the contents of the

jugs on the floor of the house. The man saw Deputy Jonathan Janey and attempted to flee. Deputy Jonathan Janey apprehended him and managed to put one handcuff on him, but the man spun around and struck Deputy Jonathan Janey on the head with the other portion of the handcuffs. The man grabbed Deputy Jonathan Janey's firearm and shot him twice in the chest. After Deputy Jonathan Janey fell to the ground, the man shot him once more, this time in the head. So ended Deputy Jonathan Janey's final shift shortly after 1:15 a.m. on August 17, 1989. The culprit was later convicted and sentenced to life in prison and has never been paroled; and

Whereas, It is fitting that an enduring memorial be established to commemorate Deputy Sheriff Jonathan Janey and his contributions to his county and state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 40-64-36.24, EB-WB, (40A067, 40A069), locally known as Cow Creek Road Bridge, carrying Interstate 64 over Cow Creek Road in Putnam County, the "Deputy Sheriff Jonathan Janey Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to make and be place signs identifying the bridge as the "Deputy Sheriff Jonathan Janey Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

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

Senate Resolution 63—Honoring Dennis Frye for his dedicated public service.

Whereas, Dennis Frye has 32 years as a permanent full-time U. S. government employee, whose work and service in the Harpers Ferry National Historic Park date back to his days as a volunteer in 1973; and

Whereas, Dennis Frye has served as the chief historian at Harpers Ferry National Historical Park from 1989 -1994 and again from 2004 -2018; and

Whereas, Dennis Frye is a prominent writer, lecturer, guide, and Civil War historian; and

Whereas, Dennis Frye has appeared as a guest historian on PBS, the History Channel, the Discovery Channel, C-SPAN, Fox News, A&E, and Voice of America; and

Whereas, Dennis Frye has helped produce Emmy award-winning television features on the Battle of Antietam, abolitionist John Brown, and Maryland during the Civil War; and

Whereas, Dennis Frye led the effort to film the major motion picture, Gods and Generals, at Harpers Ferry, Charles Town, and Martinsburg; and

Whereas, Dennis Frye has been a featured on-screen guest historian in West Virginia: A Film History; and

Whereas, Dennis Frye is one of the nation's leading Civil War battlefield preservationists; and

Whereas, Dennis Frye co-founded and was the first president of the Save Historic Antietam Foundation; and

Whereas, Dennis Frye co-founded and is a former president of today's Civil War Trust, from which he received the trust's highest honor - the Shelby Foote award; and

Whereas, Dennis Frye earned the prestigious Nevins-Freeman award for his lifetime achievements in the Civil War community; and

Whereas, Dennis Frye is a tour guide in demand, leading tours for organizations such as the Smithsonian, National Geographic, numerous colleges, and universities, and Civil War Round Tables; and

Whereas, Dennis Frye has lectured on Capitol Hill, and to 147 Civil War Round Table organizations in all parts of the country; and

Whereas, Dennis Frye is a well-known writer, having authored 99 articles and 10 books; and

Whereas, Dennis Frye's most recent book is *Antietam Shadows: Mystery, Myth and Machination*; and

Whereas, Dennis Frye's book, *Harpers Ferry Under Fire*, received the National Book of the Year award from the Association of Partners for Public Lands; and

Whereas, Dennis Frye's book, *September Suspense: Lincoln's Union in Peril*, was awarded the 2012 Laney Book Prize for distinguished scholarship and writing on the military and political history of the war; and

Whereas, Dennis Frye has written for prestigious Civil War magazines such as *Civil War Times Illustrated*, *America's Civil War*, *Blue and Gray Magazine*, *North and South Magazine*, and *Hallowed Ground*; and

Whereas, Dennis Frye has served as a guest contributor to the *Washington Post*; and

Whereas, Dennis Frye has been instrumental in the discovery and development of numerous exhibits relating to John Brown and the historic venues of the Civil War era; and

Whereas, Dennis Frye has been instrumental in developing the ideology and obtaining grant funding for many student applications, mini-films, and exhibitions relating to the historic eastern panhandle in West Virginia, including PARTNERS (Potomac Area Rural Teachers using National Education Resources for Students), *Time Trek*, *Shackles to Scholars*, and *School House Ridge*; and

Whereas, Dennis Frye conceived, developed, and sustained an annual internship program for graduate and undergraduate

university students. The program averages 20 interns per year, with nearly 260 university students having been served; and

Whereas, Dennis Frye conceived, developed, and sustained an annual student education program that attracts an average of 50,000 students to Harpers Ferry National Historic Park each year; and

Whereas, Dennis Frye resides near the Antietam Battlefield in Maryland, and he and his wife Sylvia have restored the home that was used by General Burnside as his post-Antietam headquarters; and

Whereas, Dennis Frye is retiring on May 31, 2018; therefore, be it

Resolved by the Senate:

That the Senate hereby honors Dennis Frye for his dedicated public service; and, be it

Further Resolved, That the Senate extends its most sincere appreciation and gratitude to Dennis Frye for his many years of dedicated public service; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Dennis Frye.

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

On motion of Senator Ferns, at 12:01 p.m., the Senate recessed to present Senate Resolution 63.

The Senate reconvened at 12:06 p.m. and resumed business under the sixth order.

Senators Prezioso, Plymale, Stollings, Beach, and Cline offered the following resolution:

Senate Resolution 64—Reaffirming the sister-state relationship between the State of West Virginia and Taiwan.

Whereas, The Republic of China (Taiwan) and the United States have enjoyed a longstanding partnership and share the common values of freedom, democracy, human rights, and the rule of law. In 2018, Taiwan is ranked by Freedom House as the second freest country in Asia, and the Heritage Foundation rated Taiwan as third in Asia in terms of economic freedom, demonstrating the strength and vitality of its democratic system and showcasing Taiwan as a beacon of democracy for Asia and beyond; and

Whereas, The State of West Virginia is proud of the sister-state relationship it has enjoyed with Taiwan since August 4, 1980, marked by strong bilateral trade, education, and cultural exchange. In 2017, the bilateral trade between West Virginia and Taiwan amounted to nearly \$64 million, making Taiwan our seventh largest Asian trading partner, demonstrating that Taiwan is not only a friendly sister-state of West Virginia but also an important trading partner; and

Whereas, The United States is Taiwan's second largest trading partner and second largest destination of Taiwan outward investment; Taiwan is the eleventh largest trading partner of the United States, with bilateral trade reaching \$68.2 billion in 2017, and eighth largest export destination for U. S. agricultural goods, and overall the fourteenth largest export market; and

Whereas, West Virginia welcomes all opportunities for an even closer economic partnership to increase the trade and investment and endorses Taiwan's effort to secure the signing of a U. S.-Taiwan Bilateral Trade Agreement to boost greater West Virginia exports to Taiwan and to bring in more Taiwanese investment such as the \$34 million project which Far Eastern New Century Corporation recently announced; and

Whereas, In the 2016/17 academic year, 21,516 students from Taiwan studied in the U. S., making Taiwan the seventh leading place of origin for students coming to the U. S. and contributed more than \$738 million to the U. S. economy through their spending on tuition, accommodation, and living expenses;

Whereas, Taiwan pursues a New Southbound Policy to promote more diverse bilateral and multilateral collaboration with Southeast Asia, South Asia, Australia, and New Zealand, serving the best interests of the Asia-Pacific region in the continuation of stability and growth; and

Whereas, Taiwan has been proven to be a very valuable contributor in a broad range of global issues and is necessary to be granted access to meaningfully participate in various international organizations including the World Health Organization, International Civil Aviation Organization, United Nation Framework Convention on Climate Change, and International Criminal Police Organization; therefore, be it

Resolved by the Senate:

That the Senate hereby reaffirms the sister-state relationship between the State of West Virginia and Taiwan; and, be it

Further Resolved, That the Senate commends Taiwan's vibrant, full-fledged democracy and endorses Taiwan's efforts to secure the signing of the Bilateral Trade Agreement with the United States, and continues to support Taiwan's meaningful participation and contribution in international organizations which impact the health, safety, and wellbeing of its people, and supports its aspiration to make more contributions in international societies; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to Mr. Stanley Kao, Representative of the Taipei Economic and Cultural Representative Office in the United States.

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

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report, to take effect July 1, 2018, and requested the concurrence of the Senate in the adoption thereof, as to

Eng. Com. Sub. for House Bill 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Whereupon, Senator Ferns, from the committee of conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 4145, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel,

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the Senate amendment to **Com. Sub. for H. B. 4145** having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate recede from its position as to their amendment to the bill.

Respectfully submitted,

Paul Espinosa, *Chair*, Everette W. Anderson, Jr., Brent Boggs,
Conferees on the part of the House of Delegates.

Ryan J. Ferns, *Chair*, Craig Blair, Robert H. Plymale,
Conferees on the part of the Senate.

Senator Ferns moved that the committee of conference report as to Engrossed Committee Substitute for House Bill 4145 be taken up for immediate consideration, and on this question, Senator Ferns demanded the yeas and nays.

On this question, 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, two thirds of all the members present and voting having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

The question now being on the adoption of the committee of conference report as to Engrossed Committee Substitute for House Bill 4145.

Following extended discussion,

Senator Blair moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of the committee of conference report as to Engrossed Committee Substitute for House Bill 4145, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4145, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, 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 H. B. 4145) passed with its title.

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

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4145) takes effect July 1, 2018.

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

On motion of Senator Ferns, at 12:59 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 3:05 p.m. today and resumed business under the third order.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 6, 2018, he had approved **Enr. Committee Substitute for Senate Bill 71** and **Enr. Committee Substitute for Senate Bill 237**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of March, 2018, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 4145), Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 17, John Hancock Hall Memorial Bridge.

Senate Concurrent Resolution 21, US Army PFC Charles Thurman "Buddy" Ellis Memorial Bridge.

Senate Concurrent Resolution 22, US Army Colonel Larkin Bilton Vance Memorial Highway.

Senate Concurrent Resolution 25, US Army PFC O. T. (Teaberry) Mullins Memorial Bridge.

Senate Concurrent Resolution 26, US Army PFC Thomas Mayford Martin Memorial Bridge.

Senate Concurrent Resolution 27, US Army CPL F. Lee Noel Memorial Bridge.

Senate Concurrent Resolution 37, Sheriff John E. White Memorial Road.

Senate Concurrent Resolution 43, US Army T-4 CE Caesar Bango Memorial Bridge.

House Concurrent Resolution 3, U. S. Army Cpl David Michael Hopkins and U.S. Army Cpl Romey Earl Hughart, Jr. Memorial Bridge.

House Concurrent Resolution 4, U. S. Army SPC4 Gary Wayne Morgan Memorial Bridge.

House Concurrent Resolution 16, Frenchburg Bridge.

House Concurrent Resolution 26, U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge.

House Concurrent Resolution 33, U. S. Army 2LT Clarence Drago Memorial Bridge.

House Concurrent Resolution 87, Constable Joseph H. Davidson Memorial Bridge.

And,

House Concurrent Resolution 91, U.S. Navy Capt Homer Leroy Smith Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Gregory L. Boso,
Chair.

At the request of Senator Boso, unanimous consent being granted, the resolutions (S. C. R. 17, 21, 22, 25, 26, 27, 37, and 43 and H. C. R. 3, 4, 16, 26, 33, 87, and 91) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, 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.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

Senate Concurrent Resolution 29, US Army SGT Benny Fleming Memorial Bridge.

And reports back a committee substitute for same as follows:

Com. Sub. for Senate Concurrent Resolution 29 (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 30-3/5-19.82 (30A268), locally known as Lowney Singing Bridge, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the “U. S. Army SGT Benny Fleming Memorial Bridge”.

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

Whereas, SGT Benny Fleming was a lifelong resident of Mingo County where he raised a family and made a living as a coal miner. Throughout his life, he overcame many obstacles, all while maintaining a great attitude; and

Whereas, SGT Benny Fleming attended Lowney Grade School near his family home, and graduated from Lenore High School in 1966. That same year, he enlisted in the U. S. Army. In the five years he served, he was promoted Sergeant E-5, served in Vietnam, and eventually received an honorable discharge. After returning home, he worked for the West Virginia Division of Highways; and

Whereas, SGT Benny Fleming began working underground in the coal mines in 1970s, when the danger of working underground was at its highest. He worked for Dehue Mines in Logan until they closed, and then went to work at Rawl Sales Rocky Hollow for nearly 15 years until he suddenly became sick while on vacation with his family. He was diagnosed with transverse myelitis. After spending months in the hospital, and then at a rehabilitation center, he was left paralyzed from the waist down and confined to a wheelchair; and

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

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

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

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

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

Whereas, In his last few years, SGT Benny Fleming began reflecting on his life. He began compiling notes and started the process of writing a short story about the life and times of growing up in the 1950s. He titled it "Growing Up Lowney". It tells the story of when he was young and going to Lowney Grade School near his childhood home. He goes into great detail and tells everything he can remember of growing up in that area of Mingo County. He typed the story himself and surprised his children and grandchildren each with a copy. The seven-page story is Benny's legacy. It is a small glimpse into the type of man that he was. Although confined to a wheelchair for the last 25 years of his life, Benny overcame many obstacles with the love and support of his family. He overcame them to become a loving father, extraordinary grandfather, and outstanding member of the community, all with a smile on his face; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of SGT Benny Fleming; therefore, be it

Resolved by the West Virginia Legislature:

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

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge

as the “U. S. Army SGT Benny Fleming Memorial Bridge”; and, be it

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

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Gregory L. Boso,
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 4431, Establishing the Mountaineer Trail Network Recreation Authority.

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.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

House Concurrent Resolution 5, U. S. Army PFC Jessie Franklin Crow Memorial Bridge.

And has amended same.

And reports the same back with the recommendation that it be adopted, as amended.

Respectfully submitted,

Gregory L. Boso,
Chair.

The Senate proceeded to the seventh order of business.

House Concurrent Resolution 27, Making Grafton's Annual Memorial Day Parade the Official State Memorial Day Parade.

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.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for House Bill 2464, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

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, 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)—33.

The nays were: None.

Absent: Baldwin—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2464) passed.

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

Eng. Com. Sub. for House Bill 2464—A Bill to amend and reenact §46A-6-107 of the Code of West Virginia, 1931, as amended, relating to disclaimers and exclusions of warranties for used manufactured homes; providing that a consumer may waive the warranties of merchantability and fitness for a particular use; providing that a consumer may waive a particular defect or malfunction which the merchant has identified and disclosed in writing to the consumer; providing for the manner and content of waivers; and providing a definition.

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

Eng. Com. Sub. for House Bill 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

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 H. B. 4015) passed.

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

Eng. Com. Sub. for House Bill 4015—A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10, §5A-12-11, §5A-12-12, §5A-12-13 and §5A-12-14; to amend said code by adding thereto a new section, designated §12-6D-7; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26, and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to the management and inventory of vehicles owned, leased, operated, or acquired by the state and its agencies; authorizing establishment of aviation division within Department of Administration; establishing Fleet Management Division within Department of Administration; repealing provisions relating to the central motor pool; continuing management of state owned or leased aircraft through an Aviation Division; setting duties of Aviation Division; continuing Aviation Fund and authorizing administration by division director or secretary of Department of Administration; defining terms; setting scope of article and applicability to spending units; continuing Fleet Management Office as Fleet Management Division; setting duties and responsibilities of division; providing for the appointment of a division director; providing powers and duties of the division director; terminating the Fleet Management Office Fund; establishing the Fleet Management Division Fund; providing for transfer of funds from Fleet Management Office Fund to Fleet Management Division Fund; establishing rulemaking authority for division director; requiring proposal of certain legislative rules; setting requirements for operators of state vehicles; establishing duties and responsibilities of spending units with respect to state

vehicles and equipment; requiring each spending unit designate a fleet coordinator; requiring spending unit provide name and contact information of fleet coordinator to division; setting requirements and responsibilities of fleet coordinators; requiring spending units use vehicle management services provided by division; authorizing certain exceptions; requiring annual reporting by spending units to division; requiring spending units maintain certain records; requiring division director establish complaint process for general public to report issues relevant to state vehicle fleet; requiring spending unit investigate complaints received by division; requiring division prepare state vehicle fleet annual report; setting contents of annual report; providing for spot compliance audits by the State Auditor; requiring legislative compliance audit; directing Enterprise Resource Planning Board develop standard naming convention for state vehicle information in centralized accounting system; increasing number of state vehicles Attorney General may have without state license plate; changing colors of state license plates to gold with blue lettering effective January 1, 2019; authorizing Commissioner of the Division of Motor Vehicles to issue special plates to certain organizations and entities at no charge; authorizing inclusion of higher education institution logos on state license plates; requiring higher education institutions bear any additional costs of those features; prohibiting public service districts or designated nongovernmental institutional from being issued state license plate; directing commissioner of Division of Motor Vehicles develop and adopt standardized naming convention for title, registration and licensing of state vehicles; providing for expiration of green and white state license plates; requiring spending units obtain new state license plate prior to January 1, 2019; requiring affirmative statement from spending unit that vehicle is state asset recorded in central accounting system, and verification of same, prior to issuance of state license plate; providing license plates and registrations be valid for not more than 24 months; requiring renewal every two years; authorizing promulgation of emergency rules by commissioner; directing proposal of legislative and emergency rules to establish standardized naming conventions for state vehicle titles, licenses, and registrations; establishing process for spending unit to apply for and acquire new uniform vehicle title and registration plate;

requiring updating of information in centralized accounting system following receipt of new title, registration and license plates; providing for a citation for vehicles with expired state license plate; requiring spending unit file report with division upon receipt of citation; directing compliance audit by Legislative Auditor of Division of Motor Vehicles; exempting confidential information relating to certain vehicles from public disclosure under the Freedom of Information Act; authorizing rule-making; and requiring annual reports to the Governor and Legislature.

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

Eng. Com. Sub. for House Bill 4023, Relating to the regulation of dialysis technicians.

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 H. B. 4023) passed with its title.

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

Eng. House Bill 4025, Permitting reciprocity for licensure as a pharmacy technician.

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. H. B. 4025) passed with its title.

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

Eng. Com. Sub. for House Bill 4027, Creating an education permit for allopathic physician resident.

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 H. B. 4027) passed with its title.

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

Eng. House Bill 4178, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

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. H. B. 4178) passed with its title.

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

Eng. Com. Sub. for House Bill 4197, Requiring persons employed to dispatch emergency calls complete a course in cardiovascular care for telephonic resuscitation.

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 H. B. 4197) passed with its title.

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

Eng. Com. Sub. for House Bill 4279, Relating to adult protective services system.

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 H. B. 4279) passed with its title.

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

Eng. Com. Sub. for House Bill 4368, Relating to voluntary assignments of wages by state employees who have been overpaid.

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 H. B. 4368) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

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

Eng. Com. Sub. for House Bill 4368—A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to voluntary assignments of wages by state employees who have been overpaid; and providing that state employees may voluntarily authorize an assignment or order of future wages to repay an overpayment, not to exceed a certain amount.

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

Eng. House Bill 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

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

Pending discussion,

The question being “Shall Engrossed House Bill 4434 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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. H. B. 4434) passed.

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

Eng. House Bill 4434—A Bill to amend and reenact §3-5-23 of the Code of West Virginia, 1931, as amended, relating to prohibit any person from becoming a candidate for political office by virtue of the nomination-certificate process when he or she, at the time of the filing of the nomination certificate or certificates, is registered and affiliated with a recognized political party as defined in §3-1-8 of this code or when he or she was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code but failed to win the nomination of his or her party.

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

Eng. House Bill 4462, Allowing off duty members and officers of the department of public safety to guard private property.

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. H. B. 4462) passed.

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

Eng. House Bill 4462—A Bill to amend and reenact §15-2-18 of the Code of West Virginia, 1931, as amended, relating to allowing off duty members and officers of the State Police to contract to work for a private person or entity during off duty hours as long as the type of the contract work does not violate State Police rules as to location or nature.

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

Eng. Com. Sub. for House Bill 4478, Authorizing public schools to distribute excess food to students.

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 H. B. 4478) passed with its title.

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

Eng. Com. Sub. for House Bill 4502, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

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 H. B. 4502) passed.

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

Eng. Com. Sub. for House Bill 4502—A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, as amended, relating to including treason, murder, certain degrees of robbery, certain felony sexual offenses, and organized criminal activity to the list of crimes for which a prosecutor may apply for order authorizing interception of communications.

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

Eng. Com. Sub. for House Bill 4509, Relating to the establishment of substance abuse treatment facilities.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 H. B. 4509) passed.

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

Eng. Com. Sub. for House Bill 4509—A Bill to amend and reenact §16-53-1 of the Code of West Virginia, 1931, as amended, relating to the establishment of substance abuse treatment and recovery facilities; and permitting the Department of Health and Human Resources to provide funding to facilities that provide peer-support services which follow specified standards.

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

Eng. Com. Sub. for House Bill 4522, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on yesterday, Monday, March 5, 2018, for amendments to be received on third reading, was reported by the Clerk.

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

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

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

ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-5dd. Disclosure of certain tax information pursuant to written agreements with state agencies purchasing or leasing goods or services or the Enterprise Resource Planning Board to facilitate purchasing; and the State Auditor.

(a) General. – Notwithstanding any provision of this code to the contrary, the Tax Commissioner may enter into written agreements with other agencies of this state, as provided in this section, to share certain tax information, as defined in this section.

(b) Contracts with the state. – Notwithstanding any provision of this article to the contrary, the Tax Commissioner may enter into a written agreement with the chief executive officer of an agency with authority to award public contracts for the purchase or lease of goods or services, or with the chief executive officer of the Enterprise Resource Planning Board to facilitate purchasing or leasing of goods and service, to disclose whether a vendor, or prospective vendor, is in good standing before a public contract is awarded or renewed.

(c) State Auditor. – The State Auditor is authorized to request from the Tax Commissioner, and the Tax Commissioner shall provide to the State Auditor, confirmation whether a vendor is in good standing with the Tax Commissioner. When the State Auditor provides the Tax Commissioner an electronic file, the Tax Commissioner will determine in a timely manner whether the vendor is in good standing and, if the vendor is not in good standing, electronically advise the State Auditor of the amount of taxes, interest and additions to tax that are then due and owing by that vendor to the Tax Commissioner that should be offset, if any, or that the vendor needs to contact the Tax Commissioner’s office to resolve the issue that prevents the vendor from being in good standing, before the vendor will be paid by the state.

(d) As used in §11-10-5dd of this code, the term “good standing” means that the person has a current business registration certificate under §11-12-1 et seq. of this code, has filed all required returns for taxes administered under §11-10-1 et seq. and has paid all taxes shown to be due on those returns. A person is in “good standing” even though the person may be paying taxes under a payment plan provided the person is in compliance with the terms of the written payment plan agreement; or is contesting an assessment for one or more taxes administered under §11-10-1 et seq. before the Office of Tax Appeals or in a court of this state.

(e) Exchanges of information under §11-10-5dd of this code shall occur pursuant to memorandums of understanding executed by the Tax Commissioner and the chief executive officer of any agency to award public contracts for the purchase or lease of goods or services; the chief executive officer of the Enterprise Resource Planning Board; or the State Auditor, as the case may be. These memorandums may be amended from time to time.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4522), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, 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 H. B. 4522) passed with its title.

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

Eng. House Bill 4622, Relating to authorizing legislative rules regarding higher education.

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. H. B. 4622) passed with its title.

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

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 4016, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

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

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

On page two, section four, line four, after the word “expenditure” by changing the semicolon to a colon and inserting the following proviso: “*Provided* That, all federal and state laws and regulations and rules regarding the confidentiality of information and privacy apply;”.

The bill (Eng. Com. Sub. for H. B. 4016), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4035, Creating a legislative coalition to study and report to the Legislature on palliative care.

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

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

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

ARTICLE 54. STATE ADVISORY COALITION ON PALLIATIVE CARE.

§16-54-1. Purpose.

The purpose of the coalition created under this article is to improve quality and delivery of patient centered and family focused palliative care in West Virginia.

§16-54-2. Definitions

As used in this article:

“Appropriate” means consistent with applicable legal, health, and professional standards; the patient’s clinical and other circumstances; and the patient’s reasonably known wishes and beliefs.

“Medical care” means services provided, requested, or supervised by a physician or advanced practice nurse.

“Palliative care” means patient and family centered medical care that optimizes quality of life by anticipating, preventing, and treating suffering caused by serious illness throughout the continuum of illness, involves addressing physical, emotional, social, and spiritual needs, and facilitates patient autonomy, access to information, and choice.

“Serious Illness” means any medical illness or physical injury or condition that substantially impacts quality of life for more than a short time.

§16-54-3. Creation of the State Advisory Coalition on Palliative Care.

There is created the State Advisory Coalition on Palliative Care. The administrative functions of the coalition are the responsibility of staff assigned to the Joint Committee on Health.

§16-54-4. Members of the Advisory Coalition on Palliative Care.

(a) The Advisory Coalition on Palliative Care consists of the individuals appointed by the President of the Senate and the Speaker of the House of Delegates who are health professionals having palliative care work experience and/or expertise in palliative care delivery models in a variety of inpatient, outpatient, and community settings and with a variety of populations, including pediatric, youth, and adults.

(b) The members include:

(1) A physician who practices palliative care in this state and is licensed pursuant to the provisions of §30-3-1 et seq. of this code, who shall serve as chair of the coalition for the first meeting until a chairman is selected by the Advisory Coalition;

(2) A physician;

(3) A registered professional nurse;

(4) A social worker;

(5) A pharmacist;

(6) A spiritual advisor;

(7) A patient advocate;

(8) A family caregiver advocate;

(9) One additional palliative care practitioner; and

(10) The Executive Director of the Center for End of Life Care, or his or her designee.

(c) The co-chairs of the Joint Committee on Health serve as nonvoting members, ex-officio.

(d) Membership on the coalition shall be distributed among the congressional districts of the state, and each congressional district shall be represented in the membership of the coalition.

§16-54-5. Powers and duties.

(a) The coalition shall consult with and advise the Legislature on matters related to the establishment, maintenance, operation, and outcomes evaluation of palliative care initiatives in the state. The coalition may:

(1) Meet at least quarterly or at the call of the chairman. A quorum is a simple majority of the coalition;

(2) Keep accurate records of the actions of the coalition;

(3) Make recommendations to the Legislature as required by this article;

(4) Provide guidance to the Legislature on potential statutory solutions relative to regulation of palliative care;

(5) Establish workgroups and clinical advisory committees as the coalition considers necessary to address pertinent issues related to palliative care and to provide consistency in the development of further regulation;

(6) Consult with entities and persons with expertise as the coalition considers necessary in the fulfillment of its duties. This can include public and private sector partnerships;

(7) Establish a system for identifying patients or residents who could benefit from palliative care;

(8) Provide information about and facilitate access to appropriate palliative care; and

(9) Offer any additional guidance to the Legislature which the coalition sees is within its scope which would further enhance the palliative care.

(b) The coalition shall report its findings to the Joint Committee on Health by December 31, 2019, and annually after that until the coalition terminates pursuant to the provisions of this article. The report shall include, at a minimum, the following:

(1) Conclusions and recommendations to promote a better means for palliative care;

(2) Recommendations for statutory and regulatory modifications;

(3) Identification of any action which may be taken by the Legislature to better foster awareness of palliative care issues in this state;

(4) A means to raise palliative care awareness; and

(5) Any other ancillary issues relative to palliative care.

§16-54-6. Cooperation with the coalition.

The Department of Health and Human Resources, the West Virginia Insurance Commission, the Public Employees Insurance Agency, the Center for End of Life Care, and all other entities of state government shall cooperate with the coalition in the exchange of data, information, and expertise if so requested by the coalition, including, but not limited to:

(1) Providing the entity's plans to improve palliative care in West Virginia;

(2) Sharing information on the financial impact of palliative care on the State of West Virginia;

(3) Providing an assessment of the benefits of implemented programs and activities aimed at bettering palliative care;

(4) Assisting in the development or revision of detailed action plans to improve palliative care; and

(5) Providing resources required to implement the plan.

§16-54-7. Sunset.

The coalition terminates on December 31, 2021, unless continued by act of the Legislature.

The bill (Eng. Com. Sub. for H. B. 4035), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4042, Redefining school zone to facilitate placement of school zone signs.

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

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

On page one, section one, line sixteen, after the word “zone” by inserting the words “established by an engineering study conducted by the Division of Highways”.

The bill (Eng. Com. Sub. for H. B. 4042), as amended, was then ordered to third reading.

Eng. House Bill 4183, Relating generally to standardized testing requirements for nonpublic schools.

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

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

On pages one and two, section three, lines eleven and twelve, by striking out the words “the most recent published or normed version of the test” and inserting in lieu thereof the words “published or normed within the last ten years”;

On page two, section three, line fourteen, after the word “a” by inserting the word “school’s”;

And,

On page three, section three, line forty-seven, by striking out the words “does no longer satisfy” and inserting in lieu thereof the words “no longer satisfies”.

The bill (Eng. H. B. 4183), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4275, Relating to the law-enforcement authority of the director and officers of the division of protective services.

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

Eng. Com. Sub. for House Bill 4400, Relating to the West Virginia Physicians Mutual Insurance Company.

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

Eng. Com. Sub. for House Bill 4546, Relating to where an application for a marriage license may be made.

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

Senate Bill 633, Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund.

Senate Bill 634, Adding, increasing, and decreasing appropriations from General Revenue to DHHR.

Eng. Com. Sub. for House Bill 2028, Relating to the venue for suits and other actions against the state.

Eng. Com. Sub. for House Bill 4214, Increasing penalties for unlawfully possessing or digging ginseng.

Eng. Com. Sub. for House Bill 4276, Allowing magistrates to grant work release privileges.

Eng. Com. Sub. for House Bill 4336, Updating the schedule of controlled substances.

Eng. House Bill 4376, Expiring funds to the balance of the Department of Health and Human Resources.

Eng. House Bill 4379, Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation.

Eng. Com. Sub. for House Bill 4401, Relating to the registration of business.

Eng. Com. Sub. for House Bill 4453, Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review.

Eng. House Bill 4529, Relating to oath by municipal official certifying list of delinquent business and occupation taxes.

Eng. Com. Sub. for House Bill 4571, Relating to the final day of filing announcements of candidates for a political office.

Eng. Com. Sub. for House Bill 4618, Relating to the authority of the Division of Protective Services.

And,

Eng. House Bill 4627, Relating to providing a limitation on the eminent domain authority of a municipal park board.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 3:52 p.m., the Senate recessed until 4:30 p.m. today.

The Senate reconvened at 5:28 p.m. today and, without objection, returned to the third order of business.

Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 6, 2018, he had approved **Enr. Committee Substitute for House Bill 4145**.

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 6th day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2654), Expanding county commissions' ability to dispose of county or district property.

(Com. Sub. for H. B. 2889), Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

And,

(Com. Sub. for H. B. 4268), Co-tenancy Modernization and Majority Protection Act.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

The Senate again proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 5:29 p.m. today:

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Weld, at 5:30 p.m., the Senate adjourned until tomorrow, Wednesday, March 7, 2018, at 11 a.m.

WEDNESDAY, MARCH 7, 2018

The Senate met at 11:24 a.m.

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

Prayer was offered by Pastor Mike Harper, North Hills Baptist Church, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert D. Beach, a senator from the thirteenth district.

Pending the reading of the Journal of Tuesday, March 6, 2018,

At the request of Senator Gaunch, 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.

At the request of Senator Ferns, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant Rebecca Gaunch, granddaughter of the Honorable C. Edward Gaunch, a senator from the eighth district, privileges of the floor for the day.

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

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

Senate Concurrent Resolution 53—Requesting the Division of Highways name bridge number 22-22-13.73 (22A053), locally known as Scary Creek Box Beam Bridge, carrying County Route 22 over Middle Fork in Lincoln County, the “U. S. Army SGT Harold Scott White Memorial Bridge”.

Whereas, Harold Scott White was born on May 31, 1918, in Griffithsville, West Virginia. When he was young, his family moved to Smith's Ferry, Pennsylvania; and

Whereas, While in Pennsylvania, Harold Scott White worked as a carpenter, but soon moved back to Sweetland, West Virginia, because he missed his home state. There he met, fell in love with, and married Marry Odessa Ann Chambers of Sweetland. They ran a mom and pop store in Sweetland and had one son, John Elbert White, who was born in 1943; and

Whereas, SGT Harold Scott White served in the U. S. Army in Germany during World War II as Commander of the 290th Engineer Combat Battalion; and

Whereas, After returning from the war, SGT Harold Scott White worked full-time at Houdaille Industries in Huntington for 33 years while he continued to run the mom and pop store with his wife in Sweetland. He and his son, John, started White's Supermarket/Grocery in 1962, which was also the beginning of White's Plaza; and

Whereas, Also, after returning from the war, SGT Harold Scott White became a Colonel with the Honorable Order of Kentucky Colonels, a member of the Veterans of Foreign Wars Post 1064 in Huntington, and the Griffithsville Lodge 71, AF&AM. He organized many activities in Huntington, Hamlin, and Sweetland, most notably a reunion of the 290th Combat Engineers of World War II. He showed off our wonderful state to many during this time and many returned time and time again from all over the country; and

Whereas, SGT Harold Scott White became a 32nd degree Mason in the Scottish Rite, and a Beni Kedem Temple Shriner. He loved being a Shriner and helping others. His volunteer work did not end there, he also served as the vice president of the Lincoln County Opportunity Company and helped the county grow with various, programs especially those helping the senior population; and

Whereas, SGT Harold Scott White also started the U&I Farm in Sweetland. The farm was a place for public gatherings for pure fellowship or to fellowship and learn. He was a member of the Hamlin Baptist Church in Hamlin for more than 30 years and served as a deacon. As SGT Harold Scott White was also a talented wood worker and artist, he helped in the construction of this church; and

Whereas, SGT Harold Scott White was a great ambassador for his community. He worked with other community members to form a community clinic in Hamlin. He provided the original White's Supermarket/Grocery building free of charge to help the community clinic get started. That clinic, founded about the time Marshall University opened its medical school, later became the Lincoln Primary Care Center and has now extended to many counties in southern West Virginia. The clinic was run by several of the physicians at Marshall University and served as a place for medical students, residents, and fellow physicians to practice. Many of the prominent doctors at Marshall University today remember serving the Hamlin and Lincoln County community; and

Whereas, SGT Harold Scott White passed away on January 13, 1981; and

Whereas, It is fitting that an enduring memorial be established to commemorate SGT Harold Scott White and his contributions to our state and country; therefore, be it

Resolved by the West Virginia Legislature:

That the Legislature hereby requests the Division of Highways bridge number 22-22-13.73 (22A053), locally known as Scary Creek Box Beam Bridge, carrying County Route 22 over Middle Fork in Lincoln County, the "U. S. Army SGT Harold Scott White Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SGT Harold Scott White Memorial Bridge"; and, be it

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

Which, under the rules, lies over one day.

Senators Drennan, Plymale, Stollings, and Boso offered the following resolution:

Senate Resolution 65—Memorializing the life of Leon McCoy, teacher, coach, and dedicated public servant.

Whereas, Leon McCoy was born June 1, 1928, in Jeffrey, Boone County, West Virginia; and

Whereas, Leon McCoy attended Charleston High School, the University of Tennessee, and Morris Harvey College; and

Whereas, Leon McCoy went to the University of Tennessee on a football scholarship in 1947, and then finished up at Morris Harvey (1949-1951) where he was an All-American football player in 1950, three-time All-West Virginia Intercollegiate Athletic Conference first team selection and graduated in 1952. He was also a United States heavyweight boxing champion of the south in 1950 and signed with the Detroit Lions of the National Football League in 1952; and

Whereas, Leon McCoy began his teaching/coaching career as an assistant coach at Charleston Central Catholic HS in 1953. He then took his first turn at Winfield High School from 1955-1959, losing the state title in both 1958 and 1959. Coach McCoy returned to coach at Charleston High School in 1960 but in 1962 went to Cocoa High School in Florida to coach/teach for seven years. In 1969, Coach McCoy arrived back at Winfield High School to teach, coach, and mentor the many athletes, students, and coworkers where he led from the front with his well-known weightlifting program; and

Whereas, Coach McCoy had an outstanding career as Winfield's football coach, finishing with a career record of 213-68-1 in 26 years; and

Whereas, Coach McCoy had five 10-0 seasons, and two undefeated seasons in 1985 and 1987, winning the state AA Championship with records of 13-0; and

Whereas, Coach McCoy was inducted into the West Virginia Coaches Hall of Fame in 2009 and is also a member of the University of Charleston Hall of Fame; and

Whereas, Coach McCoy was a devout christian and head deacon at the Winfield Baptist Church, and eagerly shared and demonstrated his faith at every opportunity; and

Whereas, Coach McCoy was married to his beloved wife, Betty, of 64 years, with whom he shared the joy of having their children: Cathy Bailey (David), of Scott Depot, and Bill Hughes (Linda), of Winfield; grandchildren, Brooke Smolder (Eddie), of Ripley, and their children Braylie and Eddric, Brittany Harper (Dave), of Scott Depot, and their children Betley and Cassidy, Amy Artrip (Brent), of Raleigh, and their children Eric and Ian, and John Grass (Kristi), of Raleigh, and his children Tori, Sera, and Jack

Whereas, Sadly, Coach McCoy passed away on May 27, 2017, bringing an end to a legendary teaching and coaching career, and a life dedicated to faith, family, and public service; and

Whereas, It is fitting the Senate honors the memory of Coach Leon McCoy for his contributions to his community and state; therefore, be it

Resolved by the Senate:

That the Senate hereby memorializes the life of Leon McCoy, teacher, coach, and dedicated public servant; and

Further Resolved, That the Senate extends its most sincere condolences to family of Coach Leon McCoy on his passing; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the family of Coach Leon McCoy.

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

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senators Drennan and Gaunch regarding the adoption of Senate Resolution 65 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:41 a.m., the Senate recessed to present Senate Resolution 65.

The Senate reconvened at 11:46 a.m. today and, at the request of Senator Ferns, and by unanimous consent, returned to the second order of business and the introduction of guests.

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the rejection by that body of

Eng. Com. Sub. for Senate Bill 7, Relating to claims under Wage Payment and Collection Act.

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

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

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

Delegates Sobonya, Hollen, and Byrd.

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

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

Senators Takubo, Cline, and Stollings.

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

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

Eng. Senate Bill 47, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child.

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

Eng. Com. Sub. for Senate Bill 102, Creating WV Uniform Fiduciary Access to Digital Assets Act.

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

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

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

CHAPTER 39B. UNIFORM POWER OF ATTORNEY ACT.

ARTICLE 2. AUTHORITY.

§39B-2-101. Authority that requires specific grant; grant of general authority.

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and

exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject to:

(1) Create, amend, revoke, or terminate an inter vivos trust;

(2) Make a gift;

(3) Create or change rights of survivorship;

(4) Create or change a beneficiary designation;

(5) Delegate authority granted under the power of attorney;

(6) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(7) Exercise fiduciary powers that the principal has authority to delegate; or

(8) Disclaim property, including a power of appointment; or

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

(b) Notwithstanding a grant of authority to do an act described in this section, unless the power of attorney otherwise provides, an agent may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise, ~~unless the power of attorney expresses in the grant of authority the specific act and identifies the existing property interest with particularity, rather than in general terms.~~

(c) Subject to §39B-2-101(a), §39B-2-101(b), §39B-2-101(d), and §39B-2-101(e) of this code, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in §39B-2-104 through §39B-2-116 of this code.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to the provisions of §39B-2-117 of this code.

(e) Subject to §39B-2-101(a), §39B-2-101(b), §39B-2-101(d), and §39B-2-101(e) of this code, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(f) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(g) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

ARTICLE 3. STATUTORY FORMS

§39B-3-101. Statutory form power of attorney.

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this act.

STATE OF WEST VIRGINIA

STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act ~~insert citation~~, §39B-1-101 *et seq.* of this code.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the special instructions. This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions. If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ name the following person as my agent:

(Name of Principal)

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act [~~insert citation~~], §39B-1-101 et seq. of this code:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

Real Property

Tangible Personal Property

Stocks and Bonds

Commodities and Options

Banks and Other Financial Institutions

Operation of Entity or Business

Insurance and Annuities

Estates, Trusts, and Other Beneficial Interests

Claims and Litigation

Personal and Family Maintenance

Benefits from Governmental Programs or Civil or Military Service

Retirement Plans

Taxes

All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

Create, amend, revoke, or terminate an inter vivos trust

Make a gift, subject to the limitations of the West Virginia Uniform Power of Attorney Act and any special instructions in this power of attorney

Create or change rights of survivorship

Create or change a beneficiary designation

Authorize another person to exercise the authority granted under this power of attorney

Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

Exercise fiduciary powers that the principal has authority to delegate

() Disclaim or refuse an interest in property, including a power of appointment

() Access the content of electronic communications

LIMITATION ON AGENT’S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

NOMINATION OF [CONSERVATOR OR GUARDIAN] (OPTIONAL)

If it becomes necessary for a court to appoint a [conservator or guardian] of my estate or [guardian] of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate:

Nominee’s Address: _____

Nominee’s Telephone Number: _____

Name of Nominee for [guardian] of my person: _____

Nominee’s Address: _____

Nominee’s Telephone Number: _____

RELiance ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated.

SIGNATURE AND ACKNOWLEDGMENT

Your Signature _____ Date _____

Your Name Printed _____

Your Address _____

Your Telephone Number _____

State of _____

[County] of _____

This document was acknowledged before me on _____,

(Date)

by _____.

(Name of Principal)

_____ (Seal, if any)

Signature of Notary

My commission expires: _____

[This document prepared by: _____]

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest; act in good faith;

(2) Do nothing beyond the authority granted in this power of attorney; and

(3) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

_____ by _____

(Principal's Name)

(Your Signature) as Agent

Unless the special instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal's benefit;

(2) Avoid conflicts that would impair your ability to act in the principal's best interest;

(3) Act with care, competence, and diligence;

(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

TERMINATION OF AGENT'S AUTHORITY

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal's revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished;
or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

LIABILITY OF AGENT

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act ~~[insert citation]~~, §39B-1-101 *et seq.* of this code. If you violate the Uniform Power of Attorney Act ~~[insert citation]~~, as set forth in §39B-1-101 *et seq.* of this code, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.

ARTICLE 5B. WEST VIRGINIA UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT.

§44-5B-1. Short title.

This article may be cited as the West Virginia Uniform Fiduciary Access to Digital Assets Act.

§44-5B-2. Definitions.

In this article:

“Account” means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user;

“Agent” means an attorney-in-fact granted authority under a durable or nondurable power of attorney;

“Carries” means engages in the transmission of an electronic communication;

“Catalogue of electronic communications” means information that identifies each person with whom a user has had an electronic communication, the time and date of the communication, and the electronic address of the person;

“Conservator” means a person appointed by a court to manage the estate and financial affairs of a protected person. The term includes a limited conservator and temporary conservator;

“Content of an electronic communication” means information concerning the substance or meaning of the communication which:

(1) Has been sent or received by a user;

(2) Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(3) Is not readily accessible to the public;

“Court” means the circuit court of the county having jurisdiction over the fiduciary or designated recipient;

“Custodian” means a person that carries, maintains, processes, receives, or stores a digital asset of a user;

“Designated recipient” means a person chosen by a user using an online tool to administer digital assets of the user;

“Digital asset” means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability, unless the asset or liability is itself an electronic record;

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

“Electronic communication” has the meaning set forth in 18 U.S.C. § 2510(12);

“Electronic communication service” means a custodian that provides to a user the ability to send or receive an electronic communication;

“Fiduciary” means an original, additional or successor personal representative, conservator, agent, or trustee;

“Information” means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like;

“Online tool” means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to

provide directions for disclosure or nondisclosure of digital assets to a third person;

“Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity;

“Personal representative” means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this article;

“Power of attorney” means a record that grants an agent authority to act in the place of a principal;

“Principal” means an individual who grants authority to an agent in a power of attorney;

“Protected person” means an individual for whom a conservator has been appointed. The term includes an individual for whom an application for the appointment of a conservator is pending;

“Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

“Remote computing service” means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14);

“Terms of service agreement” means an agreement that controls the relationship between a user and a custodian;

“Trustee” means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee;

“User” means a person that has an account with a custodian; and

“Will” includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

§44-5B-3. Applicability.

(a) This article applies to:

(1) A fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this article;

(2) A personal representative acting for a decedent who died before, on, or after the effective date of this article;

(3) A conservatorship proceeding commenced before, on, or after the effective date of this article; and

(4) A trustee acting under a trust created before, on, or after the effective date of this article.

(b) This article applies to a custodian if the user resides in this state or resided in this state at the time of the user’s death.

(c) This article does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer’s business.

§44-5B-4. User direction for disclosure of digital assets.

(a) A user may use an online tool to direct the custodian to disclose or not to disclose to a designated recipient some or all of the user’s digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under §44B-5B-3(a) of this code or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of

the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under §44-5B-4(a) or §44-5B-4(b) of this code overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

§44-5B-5. Terms of service agreement.

(a) This article does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This article does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or a designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under §44-5B-4 of this code.

§44-5B-6. Procedure for disclosing digital assets.

(a) When disclosing digital assets of a user under this article, the custodian may at its sole discretion:

(1) Grant a fiduciary or designated recipient full access to the user's account;

(2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this article.

(c) A custodian need not disclose under this article a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this article some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) A subset limited by date of the user's digital assets;

(2) All of the user's digital assets to the fiduciary or designated recipient;

(3) None of the user's digital assets; or

(4) All of the user's digital assets to the court for review in camera.

§44-5B-7. Disclosure of content of electronic communications of deceased user.

If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) A certified copy of the death certificate of the user;

(c) A certified copy of the letter of appointment of the representative;

(d) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(e) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(2) Evidence linking the account to the user; or

(3) A finding by the court that:

(A) The user had a specific account with the custodian, identifiable by the information specified in §44-5B-7(e)(1) of this code;

(B) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701 *et seq.*, 47 U.S.C. § 222, or other applicable law;

(C) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(D) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

§44-5B-8. Disclosure of other digital assets of deceased user.

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications of the user, if the personal representative gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) A certified copy of the death certificate of the user;

(c) A certified copy of the letter of appointment of the representative; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(2) Evidence linking the account to the user;

(3) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(4) A finding by the court that:

(A) The user had a specific account with the custodian, identifiable by the information specified in §44-5B-8(d)(1) of this code; or

(B) Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

§44-5B-9. Disclosure of content of electronic communications of principal.

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(c) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(2) Evidence linking the account to the principal.

§44-5B-10. Disclosure of other digital assets of principal.

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(c) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(2) Evidence linking the account to the principal.

§44-5B-11. Disclosure of digital assets held in trust when trustee is original user.

Unless otherwise ordered by the court or provided in a trust instrument, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

§44-5B-12. Disclosure of contents of electronic communications held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust instrument, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) A certified copy of the trust instrument or a certification of the trust under §44D-10-1013 of this code that includes consent to disclose the content of electronic communications to the trustee;

(c) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(2) Evidence linking the account to the trust.

§44-5B-13. Disclosure of other digital assets held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not

an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument or a certification of the trust under §44D-10-1013 of this code;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(B) Evidence linking the account to the trust.

§44-5B-14. Disclosure of digital assets to conservator of protected person.

(a) After an opportunity for a hearing under §44A-1-1 *et seq.* of this code, the court may grant a conservator access to the digital assets of a protected person.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the court order that gives the conservator authority over the digital assets of the protected person; and

(3) If requested by the custodian:

(A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

(B) Evidence linking the account to the protected person.

(c) A conservator with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the conservator authority over the protected person's property.

§44-5B-15. Fiduciary duty and authority.

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(1) The duty of care;

(2) The duty of loyalty; and

(3) The duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) Except as otherwise provided in §44-5B-4 of this code, is subject to the applicable terms of service;

(2) Is subject to other applicable law, including copyright law;

(3) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) May not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including the provisions of §61-3C-1 et seq. of this code.

(e) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

(1) Has the right to access the property and any digital asset stored in it; and

(2) Is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including the provisions of §61-3C-1 et seq. of this code.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(1) If the user is deceased, a certified copy of the death certificate of the user;

(2) A certified copy of the letter of appointment of the representative, court order, power of attorney, or trust instrument giving the fiduciary authority over the account; and

(3) If requested by the custodian:

(A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) Evidence linking the account to the user; or

(C) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in §44-5B-15(g)(1) of this code.

§44-5B-16. Custodian compliance and immunity.

(a) Not later than 60 days after receipt of the information required under §44-5B-7 through §44-5B-15 of this code, a custodian shall comply with a request under this article from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under §44-5B-16(a) of this code directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. § 2702.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this article.

(d) A custodian may deny a request under §44-5B-1 *et seq.* of this code from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This article does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under §44-5B-1 *et seq.* of this code to obtain a court order which:

(1) Specifies that an account belongs to the protected person or principal;

(2) Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and

(3) Contains a finding required by law other than this article.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this article.

§44-5B-17. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§44-5B-18. Relation to Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U. S. C. Section 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U. S. C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U. S. C. Section 7003(b).

§44-5B-19. Severability.

If any provision of §44-5B-1 *et seq.* of this code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 102—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; clarifying the ability of an agent under a power of attorney to take self-benefitting actions; 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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 102, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 102) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 133, Exempting renewal of certain contracts entered into during declared state of emergency.

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

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

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

ARTICLE 3. PURCHASING DIVISION.**§5A-3-3c. Exemptions from purchasing requirements for contracts entered into as part of recovery from a declared state of emergency.**

(a) The provisions of this article do not apply to contracts entered into during a state of emergency declared by the Governor pursuant to §15-5-6 of this code, so long as the contract is directly and solely related to the recovery from the declared state of emergency.

(b) The provisions of this article do not apply to the renewal of a contract entered into during a state of emergency declared pursuant to §15-5-6 of this code, if the contract is directly and solely related to the recovery from the declared state of emergency during which the contract was initially entered. For purposes of this subsection, recovery does not include permanent reconstruction after the initial state of emergency has ended.

(c) The provisions of this article do not apply to the purchase of goods or services from the federal government, or an agency thereof, if the purchase of those goods and services is directly and solely related to the recovery from a state of emergency declared pursuant to §15-5-6 of this code.

(d) To qualify for the exemption contained in this section, the Director of the Division of Homeland Security and Emergency Management must certify that the contract or purchase is directly and solely related to the recovery from a declared state of emergency and attach a copy of the proclamation issued by the Governor's office to the certification. Such certifications shall be maintained by the Division of Homeland Security and Emergency Management until the contracts or purchase agreements have been fully executed.

(e) For purposes of this section, "directly and solely related" means that the goods or services being purchased or contracted for will be used for recovery from the state of emergency only, and will not be used for any other purpose.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 133—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-3c, relating to exempting certain contracts related to recovery from a declared state of emergency from purchasing requirements; clarifying exemption from purchasing requirements for certain contracts entered into during a declared state of emergency; exempting from purchasing requirements renewals of certain contracts entered into during a declared state of emergency; clarifying that with respect to the renewal of certain contracts entered into during a declared state of emergency, recovery does not include permanent reconstruction after the initial state of emergency has ended; exempting from purchasing requirements the purchase of goods or services from the federal government or an agency thereof if the purchase of those goods and services is directly and solely related to the recovery from a declared state of emergency; requiring the Director of the Division of Homeland Security and Emergency Management to certify eligibility for exemption; setting forth record-keeping requirements; and defining the term “directly and solely related”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 133, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 133) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Com. Sub. for Senate Bill 272, Relating generally to drug control.

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

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

On page two, by striking out all of section six and inserting in lieu thereof a new section, designated section six, to read as follows:

§16-5T-6. COMMUNITY OVERDOSE RESPONSE DEMONSTRATION PILOT PROJECT.

(a) The Director of the Office of Drug Control Policy shall establish a Community Overdose Response Demonstration Pilot Project, to be continued for a period of four years, to develop model government programs to promote public health and general welfare through a comprehensive community-based response to drug overdoses in communities across West Virginia.

(b) The purpose of the demonstration pilot project is the development of community programs that will focus and use existing resources of government agencies to create outreach programs to educate concerned family and community members.

including first responders, to recognize an opioid overdose, and to immediately respond with life-saving measures and quick response teams comprised of law enforcement, emergency medical personnel, and a trained opiate case manager to conduct an in-home visit within one week of an overdose.

(c) The objective of the demonstration pilot project is to improve public health by addressing drug overdoses through a comprehensive community development plan. The plan should serve as a model to improve public health and education through a comprehensive community-based response to drug overdoses across the state.

(d) Communities that experience a high frequency of drug overdoses, compared with national averages as determined by the Office of Drug Control Policy, are eligible for participation in the demonstration pilot project.

(e) The demonstration pilot project shall be developed and administered by the Office of Drug Control Policy to encourage state and local agencies and community groups to work together and coordinate government and community responses to drug overdoses, and identify new and existing funds, personnel, and other existing resources available for the demonstration pilot project. Demonstration projects may include:

(1) Outreach programs to educate concerned family and community members, including first responders, to recognize an opioid overdose and to immediately respond with life-saving measures. This outreach may include basic information, training in the proper and safe administration of Naloxone to reverse drug overdoses, and the distribution of Naloxone kits; and

(2) Quick response teams comprised of law enforcement, emergency medical personnel, and a case manager trained in substance use disorder to conduct an in-home visit within one week of an overdose. The quick response teams would work cooperatively to triage and assess overdose survivors and provide linkage to treatment and services for rehabilitation with the goal of reducing repeated overdoses.

(f) The demonstration project may receive funding and other committed resources from federal, state, or local government and community groups.

(g) A community desiring to participate in the demonstration project shall submit a plan to the director that provides for the following elements:

(1) Community participation;

(2) Development of a community action plan with measurable, achievable, realistic, time-phased objectives;

(3) Implementation of the community action plan; and

(4) Evaluation of results.

(h) By majority vote, the Governor's Advisory Council on Substance Use Disorder Policy created pursuant to Executive Order 10-17 may select one or more communities from those that submit plans for participation in the demonstration pilot project.

(i) Commencing December 1, 2018, and each year thereafter, each participating community shall give a progress report to the director and commencing January 1, 2019, and each year thereafter, the director shall give a summary report of all the participating communities to the Legislative Oversight Commission on Health and Human Resources Accountability as established in §16-29E-1 *et seq.* of this code, on progress made by the pilot demonstration project, including suggested legislation, necessary changes to the demonstration pilot project and suggested expansion of the demonstration project.

(j) This section is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(k) The demonstration project terminates on July 1, 2022.;

On page five, section four, line sixteen, after the word “has” by inserting the word “designated”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 272—A Bill to amend and reenact §16-5T-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5T-6; to amend and reenact §16-46-4 of said code; and to amend said code by adding thereto a new section, designated §16-46-7, all relating to drug control; requiring reports to the Office of Drug Control Policy; allowing the Office of Drug Control Policy to establish a pilot program for community response to persons who have experienced a recent overdose; requiring governmental agencies to require first responders to carry Naloxone subject to certain conditions; requiring governmental agencies to require first responders to be trained in naloxone use; providing that naloxone is subject to funding and availability; and providing for a statewide standing order for Naloxone by the state health officer.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 272, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 272) passed with its House of Delegates amended title.

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

At the request of Senator Facemire, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

At the request of Senator Ferns, unanimous consent being granted, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of the Honorable Douglas E. Facemire, a senator from the twelfth district, privileges of the floor for the day.

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2018, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 319, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma.

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

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

On page two, section six, after line twenty-nine, by inserting a new subdivision, designated subdivision (3), to read as follows:

“(3) Maintain a grade point average of at least 3.0 on a 4.0 grading scale in the required core and elective course work necessary to prepare students for success in post-secondary education at the associate and baccalaureate degree levels as determined by the commission, if the individual has completed not more than one semester or term at an institution of higher education, excluding credits earned in advanced placement, international baccalaureate, dual credit and comparable courses while the student is enrolled in high school;”;

And by renumbering the remaining subdivisions;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 319—A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to allowing, in certain instances, individuals completing a secondary education program in a public, private, or home school and individuals obtaining a GED or equivalent to be eligible for the PROMISE scholarship.

Senator Ferns moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Ferns’ aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 319, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 319) passed with its House of Delegates amended title.

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

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

The nays were: None.

Absent: Mann and Maroney—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 319) takes effect July 1, 2018.

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

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

Eng. Senate Bill 365, Relating to Young Entrepreneur Reinvestment Act.

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Senate Bill 365—A Bill to amend and reenact §59-1-2c of the Code of West Virginia, 1931, as amended, relating to the Young Entrepreneur Reinvestment Act; eliminating sunset date for expiration of fee waivers.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Senate Bill 365, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 365) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 404, Relating to sex offender registry information.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page five, section two, line ninety-seven, by striking out the words “or adjudicated”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 404, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 404) passed with its title.

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

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

Eng. Com. Sub. for Senate Bill 412, Relating to authority of county litter control officers.

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

Eng. Senate Bill 427, Modifying form of notice for certain tax delinquencies.

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

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

On page one, section twenty-three, lines fourteen through twenty, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) Within 10 days after the filing of the list, the Secretary of State shall give final written notice of ~~the~~ any delinquency of \$1,000 or greater by registered or certified mail to each of the delinquent taxpayers at his or her, or its, last known post office address; ~~the Secretary of State may give final written notice of any delinquency of less than \$1,000 by first class mail to each of the delinquent taxpayers at his or her, or its, last known post office address;~~ and upon the failure of any delinquent taxpayer to pay the taxes within 30 days from the mailing of the notice.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 427—A Bill to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating to allowing the Secretary of State to give written notice of delinquency in the payment of certain taxes to certain taxpayers by first class mail.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 427, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 427) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect July 1, 2018, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 441, Relating to health care provider taxes.

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

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, section thirty-eight, lines forty through forty-five, by striking out all of subsection (e) and inserting in lieu thereof a new subsection (e), to read as follows:

(e) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of June 30, ~~2017~~ 2018, and on June 30 of each year thereafter, shall be transferred to the West Virginia Medical Services Fund. ~~This transfer shall occur after that June 30 but no later than the next ensuing~~ September 30 ~~2017~~. These funds

shall be used during the state fiscal year 2018 in which they were transferred at the discretion of the Bureau for Medical Services.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 441, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 441) passed with its title.

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

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

The nays were: None.

Absent: Mann and Maroney—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 441) takes effect July 1, 2018.

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

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

Eng. Com. Sub. for Senate Bill 451, Relating generally to hunting and fishing.

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

Eng. Com. Sub. for Senate Bill 456, Physical Therapy Licensure Compact Act.

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

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

On page one, section two, line one, by striking out the word "Governor" and inserting in lieu thereof the words "West Virginia Board of Physical Therapy";

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for 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 Board of Physical Therapy to execute the compact; setting forth purposes; setting forth the purposes for the compact;

defining terms; providing participation requirements; providing licensure requirements; establishing a licensure process; establishing application process; providing for fees; providing requirements for renewal of a license; providing for joint investigation; establishing the effect of disciplinary actions; creating the commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing immunity; establishing commission rule-making authority; establishing licensure information system; providing for compact administrators; providing for judicial review; providing for state enforcement; providing the commission may intervene in proceedings; providing for legal enforcement of compact rules and provisions; providing for termination or withdrawal of a member state; providing for compact oversight; providing dispute resolution; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; providing process to amend the compact; establishing provisions related to severability.; and establishing an effective date.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 456, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Mann and Maroney—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 456) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 493, Relating to guaranty associations.

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

Eng. Com. Sub. for Senate Bill 499, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees.

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

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

On page eight, section ten, line one hundred eighty-five, by striking out the word “shall” and inserting in lieu thereof the word “may”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 499—A Bill to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to the licensing by the Board of Medicine; clarifying

certain requirements to obtain licensure; reorganizing the minimum licensing requirements for a license; providing the completion of a certain amount of graduate clinical training.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 499, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Beach, Mann, and Maroney—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 499) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 510, Designating hospitals for stroke treatment.

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

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

Eng. Com. Sub. for Senate Bill 510—A Bill to amend and reenact §16-5B-18 of the Code of West Virginia, 1931, as amended, relating to designation of hospitals for stroke treatment; adding a designation as a thrombectomy-capable stroke center; modifying the makeup of the advisory committee; providing certain functions to the advisory committee; permitting the advisory committee to make recommendations to the office of Emergency Services; staggering the terms of the advisory committee members; providing for a database; and prohibiting certain inspections of hospitals conducted by the Department of Health and Human Resources.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 510, as amended by the House of Delegates, was then put upon its passage.

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

The nays were: None.

Absent: Beach, Mann, and Maroney—3.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 510) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 522, Relating generally to Administrative Procedures Act.

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

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

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

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

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

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

§17B-2-3a. Graduated driver's license.

(a) Any person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to ~~the provisions of §17C-5-2 and §17C-5A-2 of this code.~~ Any person under the age of 18, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of this code.

(c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) *Eligibility.* — The division shall not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by ~~the provisions of §17B-2-6 of this code,~~ and which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code;

(D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the provisions of §18-8-11 of this code;~~ and

(E) Pays a fee of \$7.50, which shall permit the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided,* That an increase in such fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under ~~the provisions of~~ this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation

of the instruction permit, may reapply for a new instruction permit under ~~the provisions of~~ §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) Under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) Between the hours of 5:00 a. m. and 10:00 p. m.;

(C) All occupants must use safety belts in accordance with ~~the provisions of~~ §17C-15-49 of this code;

(D) Without any measurable blood alcohol content, in accordance with ~~the provisions of~~ §17C-5-2(h) of this code; and

(E) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code.

(F) A holder of a level one instruction permit who is under the age of 18 years ~~shall be~~ is prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. ~~A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first~~

~~offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.~~

(d) *Level two intermediate driver's license.* — An applicant 16 years of age or older, meeting all other requirements of the code, may be issued a level two intermediate driver's license.

(1) *Eligibility.* — The division shall not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in §17B-2-6 of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the state Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph shall be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

(D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code;

(E) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of a level two intermediate driver's license.* — A level two intermediate driver's license issued under the provisions of this section shall expire 30 days after the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) Unsupervised between the hours of 5:00 a. m. and 10:00 p. m.;

(B) Only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10:00 p. m. and 5:00 a. m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants shall use safety belts in accordance with ~~the provisions of~~ §17C-15-49 of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) Without any measurable blood alcohol content in accordance with ~~the provisions of~~ §17C-5-2(h) of this code;

(F) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code;

(G) A holder of a level two intermediate driver's license who is under the age of 18 years ~~shall be~~ is prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system; ~~A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.~~

(H) Upon the first conviction for a moving traffic violation or a violation of ~~paragraph (A), (B), (C), (D) or (G), subdivision (1), subsection (d) of this section~~ §17B-2-3a(d)(2)(A), §17B-2-3a(d)(2)(B), §17B-2-3a(d)(2)(C), §17B-2-3a(d)(2)(D), or §17B-2-3a(d)(2)(G) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under §17B-2-3a(d)(2)(I) of this code; and

(I) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible may reapply for an instruction permit, then a driver's license in

accordance with ~~the provisions of~~ §17B-2-5, §17B-2-6, and §17B-2-7 of this code.

(e) *Level three, full Class E license driver's license. Terms and Conditions.* — The level three license is valid until 30 days after the date the licensee attains his or her twenty-first birthday. A holder of a level three, full Class E driver's license who is under the age of 18 years is prohibited from using a wireless communication device while operating a motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

(1) Has reached the age of 17 years; and

(A) Presents a completed application as prescribed by ~~the provisions of~~ §17B-2-6 of this code;

(B) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;

(C) Has completed any driver improvement program required under ~~paragraph (G), subdivision (2), subsection (d) of this section~~ §17B-2-3a(d)(2)(H) of this code; and

(D) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code;

(E) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code; or

(2) Reaches the age of 18 years; and

(A) Presents a completed application as prescribed by ~~the provisions of~~ §17B-2-6 of this code; and

(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, ~~or level two intermediate driver's license~~, or level three, full Class E driver's license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 545—A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to driving privileges and requirements for persons under the age of 18; prohibiting a holder of a level three, full Class E license who is under the age of 18 years from using a wireless communication device while operating a motor vehicle and specifying exception; and making violations of level-three license terms and conditions subject to the penalty provision.

Senator Ferns moved that that Senate concur in the House of Delegates amendments to the bill.

Following discussion,

At the request of Senator Ferns, and by unanimous consent, his foregoing motion was withdrawn.

Thereafter, on motion of Senator Ferns, the Senate refused to concur in the House amendments to the bill (Eng. S. B. 545) and requested the House of Delegates to recede therefrom.

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

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for House Bill 2607, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

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

Delegates Foster, Sobonya, and Canestraro.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

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

Delegates Hamrick, Sypolt, and Lynch.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

Eng. Com. Sub. for House Bill 4024, Relating generally to direct cremation or direct burial expenses for indigent persons.

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

Senator Ferns moved that the Senate accede to the request of the House of Delegates and recede from its amendments to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4024, as amended by deletion, was then put upon its passage.

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4024) passed with its title.

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

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

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4024) takes effect July 1, 2018.

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

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

Eng. Com. Sub. for House Bill 4142, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

A message from the Clerk of the House of Delegates announced that that body had agreed to the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

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

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

Delegates Fast, Overington, and Lovejoy.

Executive Communications

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor:

Jim Justice
Governor of West Virginia

March 6, 2018

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

The Honorable Tim Armstead
Speaker of the House of Delegates
State Capitol, Building 1, Room 228-M
Charleston, West Virginia 25305

Dear President Carmichael and Speaker Armstead:

After submission of my recommended FY 2019 Executive Budget on January 10, 2018, there have been a few areas that require adjustments.

These adjustments, along with my revised General Revenue estimate from February 28, and potential revised revenue estimates from the passage of certain bills that increase General Revenue, will result in a unappropriated balance in General Revenue of over \$58 million that will solidify certainty in our budgetary condition, alleviate any doubt and fear of midyear reduction, and allow for future supplemental appropriations if the revenue comes in as I expect it to from the federal tax reform and historic sale of our road bonds.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2019 Budget Bill for the TITLE II – APPROPRIATIONS as follows:

Section 1. Appropriations from general revenue.

Funds appropriated for the Public Employees Insurance Agency (PEIA) employer premiums, are adjusted in numerous line items throughout the General Revenue to account for the change in employer premiums originally funded in my recommended budget to alleviate the need for increased employee premium increases. Current premium rates are slightly out of sync of the 80% for employer and 20% for the employee premium rule. This adjustment will bring it back into alignment without increasing the

employee premiums for the upcoming plan year. My original recommended increase of \$6,507,266 for PEIA in the General Revenue Fund is being decreased by \$1,301,455, for a net-net increase to employer premiums in General Revenue of \$5,205,811. A summary of required changes is attached.

According to my proposal for a 5% average raise for all state employees (\$2,160) and educators (\$2,020 for teachers and \$1,100 for service personnel), I am adjusting numerous lines throughout General Revenue to account for the increased raise. This also includes shifting Professional Student Support Personnel raises from county to state funding. The General Revenue cost for this increased raise is \$79,863,276 above my original recommendation. A summary of required changes is attached.

Judicial

*Supreme Court – General Judicial, Fund 0180, Fiscal Year 2019,
Org 2400*

(To revise Judicial Branch appropriation request, as requested)

- Decrease “Current Expenses” appropriation 13000 by \$1,300,000.
- Decrease “Repairs and Alterations” appropriation 06400 by \$400,000.
- Decrease “Other Assets” appropriation 69000 by \$300,000.

(To revise Judges’ Retirement System contribution based on actuarial requirements from the Retirement Board, as requested.)

- Decrease “Current Expenses” appropriation 13000 by \$89,000.
- Increase “Judges’ Retirement System” appropriation 11000 by \$89,000.

Executive*Treasurer's Office, Fund 0126, Fiscal Year 2019, Org 1300*

(To provide funding to operate the ABLE program.)

- Add “ABLE Program” appropriation 69201 for \$150,000.

Department of Agriculture, Fund 0131, Fiscal Year 2019, Org 1400

(To provide funding to operate the Veterans to Agriculture program.)

- Add “Veterans to Agriculture Program” appropriation 36301 for \$250,000.

(To combine the appropriations for existing farmers markets.)

- Decrease “Huntington Farmers Market” appropriation 12800 by \$37,142.
- Add “WV Farmers Markets” appropriation 12801 for \$149,604.
- Decrease “Logan Farmers Market” appropriation 50100 by \$41,033.
- Decrease “Charleston Farmers Market” appropriation 74600 by \$71,429.

Department of Administration*Division of General Services, Fund 0230, Fiscal Year 2019, Org 0211*

(To move reduce funding for Capital Outlay to be supplemented as revenue comes available.)

- Decrease “Capital Outlay, Repairs and Equipment” appropriation 58900 by \$8,000,000.

Public Employees Insurance Agency, Fund 0200, Fiscal Year 2019, Org 0225

(To provide funding to maintain current employee health insurance coverage levels.)

- Add “PEIA Subsidy” appropriation 80100 for \$21,000,000.
- Add the language, “The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.”

Department of Commerce

West Virginia Tourism Office, Fund 0246, Fiscal Year 2019, Org 0307

(To move reduce funding for tourism initiatives to be supplemented as revenue comes available.)

- Decrease “Tourism - Marketing” Appropriation 61801 by \$2,500,000.
- Decrease “Tourism – Brand Awareness” Appropriation 61802 by \$3,000,000.
- Decrease “Tourism – Brand Promotion” Appropriation 61803 by \$4,000,000.
- Decrease “Tourism – Public Relations” Appropriation 61804 by \$1,000,000.

- Decrease “Tourism – Events and Sponsorships” Appropriation 61805 by \$2,000,000.
- Decrease “Tourism – Industry Development” Appropriation 61806 by \$500,000.
- Decrease “State Parks and Recreation Advertising” Appropriation 61900 by \$1,000,000.

West Virginia Development Office, Fund 0256, Fiscal Year 2019, Org 0307

(To move reduce funding for economic development initiatives to be supplemented as revenue comes available.)

- Decrease “Site Readiness Program” Appropriation 05052 by \$8,500,000.
- Decrease “Strategic Investment Program” Appropriation 05053 by \$17,200,000.
- Decrease “Sales and Marketing Enhancement” Appropriation 05054 by \$4,300,000.
- Decrease “Infrastructure and Economic Development Projects” Appropriation 23401 by \$2,000,000.

Department of Education

State Board of Education – State Aid to Schools, Fund 0317, Fiscal Year 2019, Org 0402

(To adjust the State Aid Formula Teachers’ Retirement System appropriations based on the actuarial requirement from the Retirement Board inclusive of the pay raise.)

- Decrease “Teachers’ Retirement System” Appropriation 01900 by \$6,658,000.
- Increase “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$20,430,000.

(To adjust School Aid Formula based on final local share numbers.) *(subject to revision)*

- Increase “Less Local Share” line by \$5,858,717 from (\$452,763,992) to (\$458,622,709).
- Increase “Improved Instructional Programs” Appropriation 15600 by \$413,575.
- Increase “21st Century Strategic Technology Learning Growth” Appropriation 93600 by \$827,150.

Department of Health and Human Resources

Division of Human Services, Fund 0403, Fiscal Year 2019, Org 0511

(Reduce and partially move funding to lottery surpluses.)

- Decrease “Medical Services” Appropriation 18900 by \$24,000,000.

Department of Military Affairs and Public Safety

West Virginia State Police, Fund 0453, Fiscal Year 2019, Org 0612

(To adjust the Troopers Retirement System appropriations based on the actuarial requirement from the Retirement Board inclusive of the pay raise.)

- Increase “Troopers Retirement Fund” Appropriation 60500 by \$693,492.
- Decrease “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$505,000.

Division of Justice and Community Services, Fund 0546, Fiscal Year 2019, Org 0620

(To add reappropriation language due to a purchasing delay.)

- Insert into the reappropriation language after Child Advocacy Centers (fund 0546, appropriation 45800), “,,Sexual Assault Forensic Examination Commission (fund 0546, appropriation 71400),...”

Bureau of Senior Services

Bureau of Senior Services, Fund 0420, Fiscal Year 2019, Org 0508

(To move funding from Lottery Net Profits.)

- Increase “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$637,471.

Council for Community and Technical College Education

West Virginia Council for Community and Technical College Education – Control Account, Fund 0596, Fiscal Year 2019, Org 0420

(To reduce funding for the Community College Tuition Subsidy Program based on the lack of movement of SB 284.)

- Decrease “Community College Tuition Subsidy” Appropriation 87801 by \$7,000,000.

Higher Education Policy Commission

West Virginia University – School of Medicine Medical School Fund, Fund 0343, Fiscal Year 2019, Org 0463

(To provide funding for the Neuroscience Institute.)

- Increase “WVU – School of Health Sciences” Appropriation 17400 by \$2,000,000.

Section 3. Appropriations from other funds.

Department of Administration

*Division of Finance – Shared Services Section Fund, Fund _____,
Fiscal Year 2019, Org 0209*

(To create the Shared Services Section Fund recommended in SB 271.)

- Add “Personal Services and Employee Benefits” Appropriation 00100 for \$1,500,000.
- Add “Current Expenses” Appropriation 13000 for \$500,000.

*Travel Management, - Aviation Fund, Fund 2302, Fiscal Year
2019, Org 0215*

(To increase spending authority for planned aircraft repair and maintenance expenses.)

- Add “Repairs and Alterations” Appropriation 00640 for \$775,000.

Department of Commerce

*Division of Forestry – Severance Tax Operations, Fund 3084,
Fiscal Year 2019, Org 0305*

(To allow for the replacement of vehicles.)

- Add “Equipment” Appropriation 07000 for \$300,000.

Section 4. Appropriations from lottery net profits.

Funds appropriated for the Public Employees Insurance Agency (PEIA) employer premiums, are adjusted in numerous line items throughout the Lottery Net Profits to account for the change in employer premiums originally funded in my recommended budget to alleviate the need for increased employee premium increases. Current premium rates are slightly out of sync of the 80% for employer and 20% for the employee premium rule. This adjustment will bring it back into alignment without increasing the employee premiums for the upcoming plan year. My original recommended increase of \$40,734 for PEIA in the Lottery Net

Profits is being decreased by \$8,147, for a net-net increase to employer premiums in Lottery Net Profits of \$32,587. A summary of required changes is attached.

According to my pay raise proposal of 5% average raise (\$2,160) for state employees, I am adjusting numerous lines throughout Lottery Net Profits to account for the increased raise. The Lottery cost for this increased raise is \$426,732 above my original recommendation. A summary of required changes is attached.

Department of Education and the Arts

Division of Culture and History – Lottery Education Fund, Fund 3534, Fiscal Year 2019, Org 0432

(To provide state matching funds for federal grants.)

- Increase “Historic Preservation Grants” Appropriation 31100 by \$73,686.
- Increase “Grants for Competitive Arts Program” Appropriation 62400 by \$145,200.

Bureau of Senior Services

Bureau of Senior Services – Lottery Senior Citizens Fund, Fund 5405, Fiscal Year 2019, Org 0508

(To move funding from Lottery Net Profits to General Revenue to balance.)

- Decrease “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$637,471.

Section 6. Appropriations of federal funds.

Department of Health and Human Resources

Divison of Human Services, Fund 8722, Fiscal Year 2019, Org 0511

(To adjust federal spending authority based on current projections.)

- Increase “Current Expenses” Appropriation 13000 by \$15,000,000.
- Decrease “Federal Economic Stimulus” Appropriation 89100 by \$15,000,000.

Section 8. Awards for claims against the state.

Amend the language to read as follows:

“There are hereby appropriated for fiscal year 2019, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$1,753,740, special revenue funds in the amount of \$22,442, and state road funds in the amount of \$408,811 for payment of claims against the state.”

Add the following Sections 10 and 11 –

“Sec. 10. Appropriations from lottery net profits surplus accrued. — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2018.

In the event that surplus revenues available from the fiscal year ending June 30, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

| | | |
|--|-------|---------------------|
| Senior Services Medicaid Transfer – Lottery Surplus | 68199 | \$ <u>6,000,000</u> |
| Total TITLE II, Section 10 – Surplus Accrued | | \$ <u>6,000,000</u> |

Sec. 11. Appropriations from state excess lottery revenue surplus accrued. — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2018.

In the event that surplus revenues available from the fiscal year ending June 30, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*Division of Human Services**(WV Code Chapter 9, 48 and 49)*Fund 5365 FY 2019 Org 0511

| | | |
|---|-------|---------------------|
| Medical Services – Lottery Surplus | 68100 | \$ <u>8,000,000</u> |
| Total TITLE II, Section 11 – Surplus Accrued | | \$ <u>8,000,000</u> |

Additionally, I submit revisions to the FY 2019 Budget Bill for the TITLE I – GENERAL PROVISIONS, Section 3 Classification of Appropriations. In the language describing terms of agency transfer authority add the following after “...no funds from other appropriations shall be transferred to the “personnel services and employee benefits” or the “unclassified” appropriation...”:

“...except that for funds appropriated in Title II – Sections 3, 6, or 7, funds may be transferred to the “personnel services and employee benefits” appropriation of the same fund in an amount not to exceed 5% of the enrolled appropriation for “personnel services and employee benefits”...”

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

Jim Justice
Governor

cc: The Honorable Craig Blair, Chairman
The Honorable Eric Nelson, Chairman
State Budget Office

Which communication was received and referred to the Committee on Finance.

The Senate proceeded to the fourth order of business.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Com. Sub. for Senate Bill 152, Budget Bill.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on Finance on March 5, 2018;

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Com. Sub. for S. B. 152) contained in the preceding report from the Committee on Finance was taken up for immediate consideration and read a second time.

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

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

TITLE I – GENERAL PROVISIONS.

Section 1. General policy. – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2019.

Sec. 2. Definitions. — For the purpose of this bill:

“Governor” shall mean the Governor of the State of West Virginia.

“Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

“Spending unit” shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The “fiscal year 2019” shall mean the period from July 1, 2018, through June 30, 2019.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

Sec. 3. Classification of appropriations. — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. “Personal services” shall include “annual increment” for “eligible employees” and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its “unclassified” appropriation, or its “current expenses” appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers

compensation. Such expenditures shall be considered an employee benefit.

“BRIM Premiums” shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for “BRIM Premium” be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its “unclassified” appropriation, its “current expenses” appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for “BRIM Premium” such costs shall be paid by each spending unit from its “current expenses” appropriation, “unclassified” appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

“Equipment” shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

“Repairs and alterations” shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

“Buildings” shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

“Lands” shall mean the purchase of real property or interest in real property.

“Capital outlay” shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed

by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation except that for funds appropriated in Title II – Section 3, 6, or 7 funds may be transferred to the “personal services and employee benefits” appropriation of the same fund in an amount not to exceed 5% of the enrolled appropriation for “personal services and employee benefits”: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature by subsequent enactment consolidates agencies, boards or functions, the secretary or other appropriate agency head may transfer the funds formerly appropriated to such agency, board or function in order to implement such consolidation. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

Sec. 4. Method of expenditure. — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

Sec. 5. Maximum expenditures. — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.

SECTION 18. Total appropriations.

SECTION 19. General school fund.

Section 1. Appropriations from general revenue. – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2019.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2019 Org 2100

| | Appro- piation | General Revenue Fund |
|--|---------------------------|-------------------------------------|
| 1 Compensation of Members (R)..... | 00300 | \$ 1,010,000 |
| 2 Compensation and Per Diem of Officers 3 and Employees (R) | 00500 | 4,011,332 |
| 4 Current Expenses and Contingent Fund (R) . | 02100 | 276,392 |
| 5 Repairs and Alterations (R) | 06400 | 50,000 |
| 6 Computer Supplies (R) | 10100 | 20,000 |
| 7 Computer Systems (R)..... | 10200 | 60,000 |
| 8 Printing Blue Book (R) | 10300 | 125,000 |
| 9 Expenses of Members (R)..... | 39900 | 370,000 |
| 10 BRIM Premium (R) | 91300 | <u>29,482</u> |
| 11 Total..... | | \$ 5,952,206 |

The appropriations for the Senate for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation

and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

2 - House of Delegates

Fund 0170 FY 2019 Org 2200

| | | | |
|---|--|-------|---------------|
| 1 | Compensation of Members (R)..... | 00300 | \$ 3,000,000 |
| 2 | Compensation and Per Diem of Officers | | |
| 3 | and Employees (R) | 00500 | 575,000 |
| 4 | Current Expenses and Contingent Fund (R) . | 02100 | 3,909,031 |
| 5 | Expenses of Members (R)..... | 39900 | 1,350,000 |
| 6 | BRIM Premium (R) | 91300 | <u>70,000</u> |
| 7 | Total..... | | \$ 8,904,031 |

The appropriations for the House of Delegates for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates, upon approval of the House committee on rules, shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker, with the approval of the House committee on rules, during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker, with the approval of the House committee on rules, and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2019 Org 2300

| | | | |
|---|--------------------------------------|-------|---------------|
| 1 | Joint Committee on Government | | |
| 2 | and Finance (R)..... | 10400 | \$ 5,725,138 |
| 3 | Legislative Printing (R)..... | 10500 | 760,000 |
| 4 | Legislative Rule-Making | | |
| 5 | Review Committee (R)..... | 10600 | 147,250 |
| 6 | Legislative Computer System (R)..... | 10700 | 1,447,500 |
| 7 | BRIM Premium (R) | 91300 | <u>60,569</u> |
| 8 | Total..... | | \$ 8,140,457 |

The appropriations for the Joint Expenses for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

JUDICIAL*4 - Supreme Court –**General Judicial*Fund 0180 FY 2019 Org 2400

| | | | |
|---|-----------------------------|-------|----------------|
| 1 | Personal Services and | | |
| 2 | Employee Benefits (R) | 00100 | \$ 102,856,258 |

| | | | |
|----|-------------------------------------|-------|----------------|
| 3 | Children's Protection Act (R) | 09000 | 214,700 |
| 4 | Current Expenses (R) | 13000 | 32,882,879 |
| 5 | Repairs and Alterations (R) | 06400 | 236,450 |
| 6 | Equipment (R)..... | 07000 | 1,800,000 |
| 7 | Judges' Retirement System (R)..... | 11000 | 779,000 |
| 8 | Buildings (R)..... | 25800 | 100,000 |
| 9 | Other Assets (R)..... | 69000 | 200,000 |
| 10 | BRIM Premium (R) | 91300 | <u>690,383</u> |
| 11 | Total..... | | \$ 139,759,670 |

The appropriations to the Supreme Court of Appeals for the fiscal years 2017 and 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions there from as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2019 Org 0100

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 3,171,318 |
| 2 | Current Expenses (R).....13000 | 760,888 |
| 3 | Repairs and Alterations.....06400 | 2,000 |
| 4 | National Governors Association.....12300 | 60,700 |
| 5 | Herbert Henderson Office of | |
| 6 | Minority Affairs.....13400 | 146,726 |
| 7 | BRIM Premium.....91300 | <u>183,645</u> |
| 8 | Total..... | \$ 4,325,277 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2019 Org 0100

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 364,421 |
| 2 | Current Expenses (R).....13000 | 183,158 |
| 3 | Repairs and Alterations.....06400 | <u>5,000</u> |
| 4 | Total..... | \$ 552,579 |

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of

the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2019 Org 0100

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.

8 - Auditor's Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2019 Org 1200

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,694,191 |
| 2 | Current Expenses (R).....13000 | 13,429 |
| 3 | BRIM Premium.....91300 | <u>12,077</u> |
| 4 | Total..... | \$ 2,719,697 |

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2019 Org 1300

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,480,419 |
| 2 | Unclassified.....09900 | 30,415 |
| 3 | Current Expenses (R).....13000 | 475,100 |
| 4 | Abandoned Property Program.....11800 | 41,794 |
| 5 | Other Assets.....69000 | 10,000 |
| 6 | ABLE Program69202 | 150,000 |
| 7 | BRIM Premium.....91300 | <u>59,169</u> |
| 8 | Total..... | \$ 3,246,897 |

Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2019 Org 1400

| | | |
|----|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 5,301,277 |
| 2 | Animal Identification Program03900 | 126,318 |
| 3 | State Farm Museum05500 | 87,759 |
| 4 | Current Expenses (R)13000 | 141,960 |
| 5 | Gypsy Moth Program (R)11900 | 954,230 |
| 6 | WV Farmers Market12801 | 150,467 |
| 7 | Black Fly Control.....13700 | 453,164 |
| 8 | Donated Foods Program36300 | 45,000 |
| 9 | Veterans to Agriculture Program36301 | 250,000 |
| 10 | Predator Control (R)47000 | 176,400 |
| 11 | Bee Research.....69100 | 67,822 |
| 12 | Microbiology Program.....78500 | 97,016 |
| 13 | Moorefield Agriculture Center78600 | 933,624 |
| 14 | Chesapeake Bay Watershed.....83000 | 106,803 |
| 15 | Livestock Care Standards Board.....84300 | 8,820 |

| | | | |
|----|--------------------------------|-------|---------------|
| 16 | BRIM Premium..... | 91300 | 138,905 |
| 17 | State FFA-FHA Camp and | | |
| 18 | Conference Center | 94101 | 613,246 |
| 19 | Threat Preparedness | 94200 | 70,731 |
| 20 | WV Food Banks..... | 96900 | 126,000 |
| 21 | Senior's Farmers' Market | | |
| 22 | Nutrition Coupon Program | 97000 | <u>55,835</u> |
| 23 | Total..... | | \$ 9,905,377 |

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2019 Org 1400

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 754,823 |
| 2 | Unclassified.....09900 | | 77,059 |
| 3 | Current Expenses (R).....13000 | | 317,848 |
| 4 | Soil Conservation Projects (R).....12000 | | 6,649,447 |
| 5 | BRIM Premium.....91300 | | <u>34,428</u> |
| 6 | Total..... | \$ | 7,833,605 |

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

*12 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2019 Org 1400

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 640,093 |
| 2 | Unclassified.....09900 | | 7,090 |
| 3 | Current Expenses13000 | | <u>82,605</u> |
| 4 | Total..... | \$ | 729,788 |

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –**Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2019 Org 1400

| | | | |
|---|---|-------|---------------|
| 1 | Programs and Awards for | | |
| 2 | 4-H Clubs and FFA/FHA..... | 57700 | \$ 15,000 |
| 3 | Commissioner's Awards and Programs..... | 73700 | <u>39,250</u> |
| 4 | Total..... | | \$ 54,250 |

*14 - Department of Agriculture –**West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2019 Org 1400

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 96,735 |
| 2 | Unclassified..... | 09900 | <u>950</u> |
| 3 | Total..... | | \$ 97,685 |

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2019 Org 1500

| | | | |
|---|------------------------------|-------|--------------|
| 1 | Personal Services and | | |
| 2 | Employee Benefits (R) | 00100 | \$ 2,537,784 |
| 3 | Unclassified (R) | 09900 | 24,428 |
| 4 | Current Expenses (R)..... | 13000 | 762,097 |
| 5 | Repairs and Alterations..... | 06400 | 1,000 |

| | | | |
|----|--------------------------------|-------|----------------|
| 6 | Equipment..... | 07000 | 1,000 |
| 7 | Criminal Convictions and | | |
| 8 | Habeas Corpus Appeals (R)..... | 26000 | 923,582 |
| 9 | Better Government Bureau | 74000 | 275,194 |
| 10 | BRIM Premium..... | 91300 | <u>120,654</u> |
| 11 | Total..... | | \$ 4,645,739 |

Any unexpended balances remaining in the above appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2019 Org 1600

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 118,794 |
| 2 | Unclassified (R)09900 | | 9,555 |
| 3 | Current Expenses (R)13000 | | 805,948 |
| 4 | BRIM Premium.....91300 | | <u>23,297</u> |
| 5 | Total..... | \$ | 957,594 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2019 Org 1601

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,477 |
| 2 | Unclassified.....09900 | | 75 |
| 3 | Current Expenses13000 | | <u>4,956</u> |
| 4 | Total..... | \$ | 7,508 |

DEPARTMENT OF ADMINISTRATION*18 - Department of Administration –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2019 Org 0201

| | | | |
|----|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 591,118 |
| 2 | Unclassified.....09900 | | 9,177 |
| 3 | Current Expenses13000 | | 85,446 |
| 4 | Repairs and Alterations.....06400 | | 100 |
| 5 | Equipment.....07000 | | 1,000 |
| 6 | Financial Advisor (R)30400 | | 27,546 |
| 7 | Lease Rental Payments51600 | | 15,000,000 |
| 8 | Design-Build Board54000 | | 4,000 |
| 9 | Other Assets69000 | | 100 |
| 10 | BRIM Premium.....91300 | | <u>6,299</u> |
| 11 | Total..... | \$ | 15,724,786 |

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2019 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for

their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2019 Org 0209

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 64,696 |
| 2 | Unclassified.....09900 | | 1,400 |
| 3 | Current Expenses13000 | | 66,721 |
| 4 | GAAP Project (R).....12500 | | 593,684 |
| 5 | BRIM Premium.....91300 | | <u>7,517</u> |
| 6 | Total..... | \$ | 734,018 |

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2019 Org 0211

| | | | |
|---|---|----|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,593,147 |
| 2 | Unclassified.....09900 | | 20,000 |
| 3 | Current Expenses13000 | | 728,849 |
| 4 | Repairs and Alterations.....06400 | | 500 |
| 5 | Equipment.....07000 | | 5,000 |
| 6 | Fire Service Fee12600 | | 14,000 |

| | | | |
|----|---|-------|----------------|
| 7 | Buildings (R)..... | 25800 | 500 |
| 8 | Preservation and Maintenance of | | |
| 9 | Statues and Monuments | | |
| 10 | on Capitol Grounds..... | 37100 | 68,000 |
| 11 | Capital Outlay, Repairs and Equipment (R).... | 58900 | 14,344,432 |
| 12 | Other Assets..... | 69000 | 500 |
| 13 | Land (R)..... | 73000 | 500 |
| 14 | BRIM Premium..... | 91300 | <u>129,983</u> |
| 15 | Total..... | | \$ 17,905,411 |

Any unexpended balances remaining in the above appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2019 Org 0213

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 1,023,307 |
|---|--|-------|--------------|

| | | | |
|---|------------------------------|-------|--------------|
| 2 | Unclassified..... | 09900 | 144 |
| 3 | Current Expenses | 13000 | 1,285 |
| 4 | Repairs and Alterations..... | 06400 | 200 |
| 5 | BRIM Premium..... | 91300 | <u>6,922</u> |
| 6 | Total..... | | \$ 1,031,858 |

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2019 Org 0215

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 779,867 |
| 2 | Unclassified..... | 09900 | 12,032 |
| 3 | Current Expenses | 13000 | 440,247 |
| 4 | Repairs and Alterations..... | 06400 | 1,000 |
| 5 | Equipment..... | 07000 | 5,000 |
| 6 | Buildings (R)..... | 25800 | 100 |
| 7 | Other Assets..... | 69000 | <u>100</u> |
| 8 | Total..... | | \$ 1,238,346 |

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2019 Org 0217

| | | | | |
|---|------------------------|-------|----|--------|
| 1 | Current Expenses | 13000 | \$ | 45,550 |
|---|------------------------|-------|----|--------|

To pay expenses for members of the commission on uniform state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2019 Org 0219

| | | | | |
|---|--|-------|----|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 935,883 |
| 2 | Unclassified..... | 09900 | | 1,000 |
| 3 | Current Expenses | 13000 | | 143,754 |
| 4 | Equipment..... | 07000 | | 50 |
| 5 | BRIM Premium..... | 91300 | | <u>10,281</u> |
| 6 | Total..... | | \$ | 1,090,968 |

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2019 Org 0220

| | | | | |
|---|--|-------|----|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 588,831 |
| 2 | Unclassified..... | 09900 | | 2,200 |
| 3 | Current Expenses | 13000 | | 104,501 |
| 4 | Repairs and Alterations..... | 06400 | | 500 |
| 5 | Other Assets..... | 69000 | | 100 |
| 6 | BRIM Premium..... | 91300 | | <u>5,574</u> |
| 7 | Total..... | | \$ | 701,706 |

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2019 Org 0221

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,367,785 |
| 2 | Unclassified.....09900 | | 314,700 |
| 3 | Current Expenses13000 | | 12,740 |
| 4 | Public Defender Corporations.....35200 | | 19,204,999 |
| 5 | Appointed Counsel Fees (R).....78800 | | 10,723,115 |
| 6 | BRIM Premium.....91300 | | <u>10,575</u> |
| 7 | Total..... | \$ | 31,633,914 |

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

*28 - Committee for the Purchase of**Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2019 Org 0224

| | | | |
|---|---|----|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 3,187 |
| 2 | Current Expenses13000 | | <u>868</u> |
| 3 | Total..... | \$ | 4,055 |

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2019 Org 0225

1 PEIA Subsidy.....80100 \$ 21,000,000

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2019 Org 0228

1 Forensic Medical Examinations (R)68300 \$ 139,611

2 Federal Funds/Grant Match (R)74900 101,418

3 Total..... \$ 241,029

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2019 Org 0233

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 660,855 |
| 2 | Unclassified.....09900 | | 1,000 |
| 3 | Current Expenses13000 | | 138,631 |
| 4 | Repairs and Alterations.....06400 | | 100 |
| 5 | Equipment.....07000 | | 2,500 |
| 6 | BRIM Premium.....91300 | | <u>8,534</u> |
| 7 | Total..... | \$ | 811,620 |

DEPARTMENT OF COMMERCE*32 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2019 Org 0305

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,743,667 |
| 2 | Unclassified.....09900 | | 21,435 |
| 3 | Current Expenses13000 | | 338,953 |
| 4 | Repairs and Alterations.....06400 | | 80,000 |
| 5 | Equipment (R).....07000 | | 2,061 |
| 6 | BRIM Premium.....91300 | | <u>98,754</u> |
| 7 | Total..... | \$ | 3,284,870 |

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, Appropriation 07000) at the close of the

fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2019 Org 0306

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,614,784 |
| 2 | Unclassified.....09900 | | 27,678 |
| 3 | Current Expenses13000 | | 51,524 |
| 4 | Repairs and Alterations.....06400 | | 968 |
| 5 | Mineral Mapping System (R)20700 | | 1,114,009 |
| 6 | BRIM Premium.....91300 | | <u>24,486</u> |
| 7 | Total..... | \$ | 2,833,449 |

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

34 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2019 Org 0307

| | | |
|----|--|----------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 4,204,485 |
| 2 | Unclassified.....09900 | 108,687 |
| 3 | Current Expenses13000 | 3,769,645 |
| 4 | National Youth Science Camp.....13200 | 241,570 |
| 5 | Local Economic Development | |
| 6 | Partnerships (R)13300 | 792,000 |
| 7 | ARC Assessment13600 | 152,585 |
| 8 | Infrastructure and Economic | |
| 9 | Development Projects.....23401 | 3,000,000 |
| 10 | Guaranteed Work Force Grant (R).....24200 | 970,955 |
| 11 | Mainstreet Program.....79400 | 164,655 |
| 12 | BRIM Premium.....91300 | 3,157 |
| 13 | Hatfield McCoy Recreational Trail.....96000 | <u>198,415</u> |
| 14 | Total..... | \$ 13,606,154 |

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the West Virginia Development Office for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions

of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

35 - Division of Labor -

Weights and Measures Fund

(WV Code Chapter 47)

Fund 0260 FY 2019 Org 0308

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,500,000 |
| 2 | Current Expenses13000 | 227,000 |
| 3 | Repairs and Alterations.....06400 | 28,000 |
| 4 | Equipment.....07000 | 15,000 |
| 5 | BRIM Premium.....91300 | <u>8,500</u> |
| 6 | Total..... | \$ 1,778,500 |

36 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2019 Org 0310

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 16,193,634 |
| 2 | Unclassified.....09900 | 184,711 |
| 3 | Current Expenses13000 | 196,302 |
| 4 | Repairs and Alterations.....06400 | 100 |
| 5 | Equipment.....07000 | 100 |
| 6 | Buildings.....25800 | 100 |

| | | | |
|----|--|-------|---------------|
| 7 | Capital Outlay – Parks | 28800 | 3,000,000 |
| 8 | Litter Control Conservation Officers | 56400 | 142,712 |
| 9 | Upper Mud River Flood Control..... | 65400 | 163,385 |
| 10 | Other Assets | 69000 | 100 |
| 11 | Land (R)..... | 73000 | 100 |
| 12 | Law Enforcement..... | 80600 | 2,473,246 |
| 13 | BRIM Premium..... | 91300 | <u>45,141</u> |
| 14 | Total..... | | \$ 22,399,631 |

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

37 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2019 Org 0314

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 9,249,358 |
| 2 | Unclassified..... | 09900 | 111,016 |
| 3 | Current Expenses | 13000 | 1,396,141 |
| 4 | Coal Dust and Rock Dust Sampling | 27000 | 482,128 |
| 5 | BRIM Premium..... | 91300 | <u>80,668</u> |

6 Total..... \$ 11,319,311

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

38 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2019 Org 0319

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 231,169 |
| 2 | Unclassified.....09900 | | 3,480 |
| 3 | Current Expenses13000 | | <u>118,138</u> |
| 4 | Total..... | \$ | 352,787 |

39 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2019 Org 0323

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 51,433 |
| 2 | Unclassified.....09900 | | 593 |
| 3 | Current Expenses13000 | | <u>7,337</u> |
| 4 | Total..... | \$ | 59,363 |

40 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2019 Org 0327

| | | | |
|---|---|----|---------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 555,128 |
|---|---|----|---------|

| | | | |
|---|------------------------|-------|---------------|
| 2 | Unclassified..... | 09900 | 3,500 |
| 3 | Current Expenses | 13000 | <u>15,089</u> |
| 4 | Total..... | \$ | 573,717 |

41 - Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2019 Org 0328

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 195,487 |
| 2 | Unclassified..... | 09900 | 12,395 |
| 3 | Current Expenses | 13000 | 1,029,679 |
| 4 | BRIM Premium..... | 91300 | <u>3,894</u> |
| 5 | Total..... | \$ | 1,241,455 |

From the above appropriation for Current Expenses (fund 0612, appropriation 13000) \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

42 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2019 Org 0402

| | | | |
|---|--|-------|------------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 335,494 |
| 2 | Current Expenses | 13000 | <u>2,118,865</u> |
| 3 | Total..... | \$ | 2,454,359 |

*43 - State Board of Education –
State Department of Education*
(WV Code Chapters 18 and 18A)
Fund 0313 FY 2019 Org 0402

| | | |
|----|--|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 4,387,599 |
| 2 | Teachers' Retirement Savings Realized09500 | 35,000,000 |
| 3 | Unclassified (R)09900 | 300,000 |
| 4 | Current Expenses (R)13000 | 2,572,000 |
| 5 | Equipment07000 | 5,000 |
| 6 | Increased Enrollment14000 | 2,910,000 |
| 7 | Safe Schools.....14300 | 4,869,447 |
| 8 | Teacher Mentor.....15800 | 550,000 |
| 9 | National Teacher Certification (R)16100 | 300,000 |
| 10 | Buildings (R).....25800 | 1,000 |
| 11 | Technology Repair and Modernization.....29800 | 951,003 |
| 12 | HVAC Technicians35500 | 506,851 |
| 13 | Early Retirement Notification Incentive36600 | 300,000 |
| 14 | MATH Program36800 | 336,532 |
| 15 | Assessment Programs39600 | 1,339,588 |
| 16 | 21st Century Fellows50700 | 274,899 |
| 17 | English as a Second Language.....52800 | 96,000 |
| 18 | Teacher Reimbursement57300 | 297,188 |

| | | | |
|----|--|-------|----------------|
| 19 | Hospitality Training | 60000 | 270,103 |
| 20 | Hi-Y Youth in Government | 61600 | 100,000 |
| 21 | High Acuity Special Needs (R)..... | 63400 | 1,500,000 |
| 22 | Foreign Student Education..... | 63600 | 100,013 |
| 23 | Principals Mentorship | 64900 | 69,250 |
| 24 | State Board of Education | | |
| 25 | Administrative Costs | 68400 | 271,779 |
| 26 | Other Assets | 69000 | 1,000 |
| 27 | IT Academy (R) | 72100 | 500,000 |
| 28 | Land (R) | 73000 | 1,000 |
| 29 | Early Literacy Program | 75600 | 5,700,000 |
| 30 | School Based Truancy Prevention (R)..... | 78101 | 2,015,366 |
| 31 | Communities in Schools | 78103 | 400,000 |
| 32 | 21st Century Learners (R)..... | 88600 | 1,726,944 |
| 33 | BRIM Premium..... | 91300 | 342,859 |
| 34 | 21st Century Assessment | | |
| 35 | and Professional Development | 93100 | 2,004,447 |
| 36 | 21st Century Technology Infrastructure | | |
| 37 | Network Tools and Support..... | 93300 | 7,636,586 |
| 38 | Educational Program Allowance | 99600 | <u>516,250</u> |
| 39 | Total..... | | \$ 78,152,704 |

The above appropriations include funding for the state board of education and their executive office.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses

(fund 0313, appropriation 13000), National Teacher Certification (fund 0313, appropriation 16100), Buildings (fund 0313, appropriation 25800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), Land (fund 0313, appropriation 73000), School Based Truancy Prevention (fund 0313, appropriation 78101), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Teachers’ Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for Webster County Board of Education for Hacker Valley; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge; and \$66,250 is for Project Based Learning in STEM fields.

44 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2019 Org 0402

| | | | | |
|---|---------------------------------------|-------|----|-----------|
| 1 | Special Education – Counties | 15900 | \$ | 7,271,757 |
| 2 | Special Education – Institutions..... | 16000 | | 3,858,654 |

| | | | |
|---|---|-------|-------------------|
| 3 | Education of Juveniles Held in Predispositional | | |
| 4 | Juvenile Detention Centers | 30200 | 625,614 |
| 5 | Education of Institutionalized Juveniles | | |
| 6 | and Adults (R)..... | 47200 | <u>18,472,954</u> |
| 7 | Total..... | | \$ 30,228,979 |

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

45 - State Board of Education –

State Aid to Schools

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2019 Org 0402

| | | | |
|----|---|-------|-------------------|
| 1 | Other Current Expenses | 02200 | \$ 149,651,626 |
| 2 | Advanced Placement..... | 05300 | 595,663 |
| 3 | Professional Educators..... | 15100 | 876,075,903 |
| 4 | Service Personnel..... | 15200 | 297,680,615 |
| 5 | Fixed Charges | 15300 | 103,542,614 |
| 6 | Transportation..... | 15400 | 73,375,145 |
| 7 | Professional Student Support Services | 65500 | 38,686,260 |
| 8 | Improved Instructional Programs..... | 15600 | 49,544,683 |
| 9 | 21st Century Strategic | | |
| 10 | Technology Learning Growth..... | 93600 | <u>21,584,131</u> |

| | | |
|----|--|--------------------|
| 11 | Basic Foundation Allowances..... | 1,610,736,640 |
| 12 | Less Local Share | (458,622,709) |
| 13 | Adjustments | <u>(1,694,701)</u> |
| 14 | Total Basic State Aid | 1,150,419,230 |
| 15 | Public Employees' Insurance Matching01200 | 232,810,116 |
| 16 | Teachers' Retirement System01900 | 72,719,190 |
| 17 | School Building Authority45300 | 23,420,520 |
| 18 | Retirement Systems – Unfunded Liability....77500 | <u>353,640,000</u> |
| 19 | Total..... | \$ 1,833,009,056 |

46 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2019 Org 0402

| | | |
|----|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,305,125 |
| 2 | Unclassified.....09900 | 268,800 |
| 3 | Current Expenses13000 | 883,106 |
| 4 | Wood Products – Forestry | |
| 5 | Vocational Program14600 | 73,715 |
| 6 | Albert Yanni Vocational Program14700 | 132,123 |
| 7 | Vocational Aid14800 | 23,239,266 |
| 8 | Adult Basic Education14900 | 4,894,607 |
| 9 | Program Modernization30500 | 884,313 |
| 10 | High School Equivalency | |
| 11 | Diploma Testing (R)72600 | 790,743 |

| | | | |
|----|---------------------------------------|-------|----------------|
| 12 | FFA Grant Awards..... | 83900 | 11,496 |
| 13 | Pre-Engineering Academy Program | 84000 | <u>265,294</u> |
| 14 | Total..... | | \$ 32,748,588 |

Any unexpended balance remaining in the appropriation for High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

47 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2019 Org 0403

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 11,588,010 |
| 2 | Unclassified..... | 09900 | 110,000 |
| 3 | Current Expenses | 13000 | 2,145,469 |
| 4 | Repairs and Alterations..... | 06400 | 85,000 |
| 5 | Equipment..... | 07000 | 70,000 |
| 6 | Buildings (R)..... | 25800 | 50,000 |
| 7 | Capital Outlay and Maintenance (R) | 75500 | 82,500 |
| 8 | BRIM Premium..... | 91300 | <u>140,842</u> |
| 9 | Total..... | | \$ 14,271,821 |

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

DEPARTMENT OF EDUCATION AND THE ARTS*48 - Department of Education and the Arts –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2019 Org 0431

| | | | |
|----|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 533,834 |
| 2 | Unclassified.....09900 | | 35,000 |
| 3 | Center for Professional Development (R).....11500 | | 1,511,331 |
| 4 | Current Expenses13000 | | 7,162 |
| 5 | WV Humanities Council.....16800 | | 250,000 |
| 6 | Benedum Professional | | |
| 7 | Development Collaborative (R).....42700 | | 429,775 |
| 8 | Governor's Honors Academy (R).....47800 | | 1,059,270 |
| 9 | Educational Enhancements69500 | | 573,500 |
| 10 | S.T.E.M. Education and Grant Program (R)71900 | | 492,262 |
| 11 | Energy Express86100 | | 382,935 |
| 12 | BRIM Premium.....91300 | | 5,336 |
| 13 | Special Olympic Games.....96600 | | <u>25,000</u> |
| 14 | Total..... | \$ | 5,305,405 |

Any unexpended balances remaining in the appropriations for Center for Professional Development (fund 0294, appropriation 11500), Benedum Professional Development Collaborative (fund 0294, appropriation 42700), Governor's Honors Academy (fund 0294, appropriation 47800), and S.T.E.M. Education and Grant Program (fund 0294, appropriation 71900) at the close of the fiscal

year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Educational Enhancements (fund 0294, appropriation 69500), \$73,500 shall be used for the Clay Center and \$500,000 for Save the Children.

49 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2019 Org 0432

| | | |
|----|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 3,299,919 |
| 2 | Current Expenses13000 | 610,843 |
| 3 | Repairs and Alterations.....06400 | 1,000 |
| 4 | Equipment.....07000 | 1 |
| 5 | Unclassified (R)09900 | 28,483 |
| 6 | Buildings (R).....25800 | 1 |
| 7 | Other Assets.....69000 | 1 |
| 8 | Land (R).....73000 | 1 |
| 9 | Culture and History Programming.....73200 | 231,573 |
| 10 | Capital Outlay and Maintenance (R)75500 | 19,600 |
| 11 | Historical Highway Marker Program.....84400 | 57,548 |
| 12 | BRIM Premium.....91300 | <u>39,337</u> |
| 13 | Total..... | \$ 4,288,307 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital

Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The Current Expense appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

50 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2019 Org 0433

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,261,316 |
| 2 | Current Expenses | 13000 | 139,624 |
| 3 | Repairs and Alterations | 06400 | 6,500 |
| 4 | Services to Blind & Handicapped | 18100 | 161,717 |
| 5 | BRIM Premium | 91300 | <u>18,205</u> |
| 6 | Total | \$ | 1,587,362 |

51 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2019 Org 0439

| | | | |
|---|---|-------|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,767,321 |
| 2 | Current Expenses | 13000 | 1,591,805 |
| 3 | Mountain Stage | 24900 | 300,000 |

| | | | |
|---|--|-------|---------------|
| 4 | Capital Outlay and Maintenance (R) | 75500 | 50,000 |
| 5 | BRIM Premium..... | 91300 | <u>48,453</u> |
| 6 | Total..... | | \$ 3,757,579 |

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

52 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2019 Org 0932

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 10,953,816 |
| 2 | Independent Living Services..... | 00900 | 429,418 |
| 3 | Current Expenses | 13000 | 558,815 |
| 4 | Workshop Development | 16300 | 1,817,427 |
| 5 | Supported Employment Extended Services.. | 20600 | 77,960 |
| 6 | Ron Yost Personal Assistance Fund | 40700 | 333,828 |
| 7 | Employment Attendant Care Program..... | 59800 | 131,575 |
| 8 | BRIM Premium..... | 91300 | <u>77,464</u> |
| 9 | Total..... | | \$ 14,380,303 |

From the above appropriation for Workshop Development (fund 0310, appropriation 16300), funds shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the

program, services, and individuals with disabilities currently in place at those organizations.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

53 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2019 Org 0311

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 76,915 |
| 2 | Current Expenses | 13000 | 29,353 |
| 3 | Repairs and Alterations..... | 06400 | 100 |
| 4 | Equipment..... | 07000 | 300 |
| 5 | Other Assets..... | 69000 | 400 |
| 6 | BRIM Premium..... | 91300 | <u>791</u> |
| 7 | Total..... | \$ | 107,859 |

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2019 Org 0313

| | | | |
|---|---|-------|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 4,051,891 |
| 2 | Water Resources Protection | | |
| 3 | and Management..... | 06800 | 570,654 |
| 4 | Current Expenses | 13000 | 96,916 |
| 5 | Repairs and Alterations..... | 06400 | 1,500 |
| 6 | Unclassified..... | 09900 | 14,825 |
| 7 | Dam Safety..... | 60700 | 212,186 |

| | | | |
|----|--|-------|----------------|
| 8 | West Virginia Stream Partners Program..... | 63700 | 77,396 |
| 9 | Meth Lab Cleanup..... | 65600 | 199,616 |
| 10 | WV Contributions to River Commissions | 77600 | 148,485 |
| 11 | Office of Water Resources | | |
| 12 | Non-Enforcement Activity | 85500 | <u>934,525</u> |
| 13 | Total..... | | \$ 6,307,994 |

A portion of the appropriations for Current Expense (fund 0273, appropriation 13000) and Dam Safety (fund 0273, appropriation 60700) may be transferred to the special revenue fund Dam Safety Rehabilitation Revolving Fund (fund 3025) for the state deficient dams rehabilitation assistance program.

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2019 Org 0325

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 60,737 |
| 2 | Current Expenses | 13000 | 12,462 |
| 3 | Repairs and Alterations..... | 06400 | 50 |
| 4 | Equipment..... | 07000 | 300 |
| 5 | Other Assets..... | 69000 | 200 |
| 6 | BRIM Premium..... | 91300 | <u>2,304</u> |
| 7 | Total..... | | \$ 76,053 |

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

56 - Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2019 Org 0501

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 379,014 |
| 2 | Unclassified.....09900 | | 6,459 |
| 3 | Current Expenses13000 | | 50,613 |
| 4 | Commission for the Deaf and | | |
| 5 | Hard of Hearing70400 | | <u>219,910</u> |
| 6 | Total..... | \$ | 655,996 |

Any unexpended balance remaining in the appropriation for the Women's Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

*57 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2019 Org 0506

| | | | |
|----|---|----|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 12,446,690 |
| 2 | Chief Medical Examiner04500 | | 6,618,003 |
| 3 | Unclassified.....09900 | | 671,795 |
| 4 | Current Expenses13000 | | 4,677,059 |
| 5 | State Aid for Local and | | |
| 6 | Basic Public Health Services18400 | | 12,652,756 |
| 7 | Safe Drinking Water Program (R)18700 | | 2,188,827 |
| 8 | Women, Infants and Children21000 | | 38,621 |
| 9 | Early Intervention22300 | | 8,134,060 |
| 10 | Cancer Registry.....22500 | | 200,682 |

| | | | |
|----|--|-------|------------------|
| 11 | Statewide EMS Program Support (R)..... | 38300 | 1,835,429 |
| 12 | Black Lung Clinics | 46700 | 170,885 |
| 13 | Vaccine for Children..... | 55100 | 335,423 |
| 14 | Tuberculosis Control..... | 55300 | 372,366 |
| 15 | Maternal and Child Health Clinics, Clinicians | | |
| 16 | Medical Contracts and Fees (R) | 57500 | 6,335,115 |
| 17 | Epidemiology Support | 62600 | 1,513,869 |
| 18 | Primary Care Support | 62800 | 4,245,849 |
| 19 | Sexual Assault Intervention and Prevention.... | 72300 | 125,000 |
| 20 | Health Right Free Clinics..... | 72700 | 2,750,000 |
| 21 | Capital Outlay and Maintenance (R) | 75500 | 100,000 |
| 22 | Maternal Mortality Review | 83400 | 47,712 |
| 23 | Diabetes Education and Prevention | 87300 | 97,125 |
| 24 | BRIM Premium..... | 91300 | 169,791 |
| 25 | State Trauma and Emergency Care System..... | 91800 | <u>2,004,450</u> |
| 26 | Total..... | | \$ 67,731,507 |

Any unexpended balances remaining in the appropriations for Safe Drinking Water Program (fund 0407, appropriation 18700), Statewide EMS Program Support (fund 0407, appropriation 38300), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200).

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the

West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$50,000 is for Hospital Hospitality House of Huntington.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2019 Org 0506

| | | |
|----|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,590,408 |
| 2 | Current Expenses13000 | 14,113 |
| 3 | Behavioral Health Program (R)21900 | 64,462,622 |
| 4 | Family Support Act.....22100 | 251,226 |
| 5 | Institutional Facilities Operations (R).....33500 | 134,223,239 |
| 6 | Substance Abuse Continuum of Care (R).....35400 | 5,000,000 |
| 7 | Capital Outlay and Maintenance (R)75500 | 950,000 |
| 8 | Renaissance Program80400 | 165,996 |
| 9 | BRIM Premium.....91300 | <u>1,296,098</u> |
| 10 | Total..... | \$207,953,702 |

Any unexpended balances remaining in the appropriations for Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund

0525, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Healing Place of Huntington.

From the above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500), together with available funds from the Division of Health – Hospital Services Revenue Account (fund 5156, appropriation 33500), on July 1, 2018, the sum of \$160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2019, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human

Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

59 - Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2019 Org 0506

| | | | |
|---|--|-------|------------|
| 1 | West Virginia Drinking Water Treatment | | |
| 2 | Revolving Fund-Transfer..... | 68900 | \$ 647,500 |

The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2019 Org 0510

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 1,028,561 |
| 2 | Unclassified..... | 09900 | 4,024 |
| 3 | Current Expenses | 13000 | 331,304 |
| 4 | BRIM Premium..... | 91300 | <u>10,764</u> |
| 5 | Total..... | | \$ 1,374,653 |

61 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2019 Org 0511

| | | |
|----|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 45,354,625 |
| 2 | Unclassified.....09900 | 5,688,944 |
| 3 | Current Expenses13000 | 11,404,008 |
| 4 | Child Care Development.....14400 | 4,090,908 |
| 5 | Medical Services.....18900 | 413,957,363 |
| 6 | Social Services19500 | 154,183,734 |
| 7 | Family Preservation Program19600 | 1,565,000 |
| 8 | Family Resource Networks.....27400 | 1,762,464 |
| 9 | Domestic Violence Legal Services Fund38400 | 400,000 |
| 10 | James “Tiger” Morton | |
| 11 | Catastrophic Illness Fund45500 | 102,883 |
| 12 | I/DD Waiver.....46600 | 88,753,483 |
| 13 | Child Protective Services Case Workers46800 | 23,473,825 |
| 14 | OSCAR and RAPIDS51500 | 6,453,502 |
| 15 | Title XIX Waiver for Seniors.....53300 | 13,593,620 |
| 16 | WV Teaching Hospitals | |
| 17 | Tertiary/Safety Net54700 | 6,356,000 |
| 18 | Child Welfare System60300 | 1,291,873 |
| 19 | In-Home Family Education.....68800 | 1,000,000 |
| 20 | WV Works Separate State Program.....69800 | 1,935,000 |
| 21 | Child Support Enforcement70500 | 6,487,501 |
| 22 | Temporary Assistance for Needy Families/ | |
| 23 | Maintenance of Effort.....70700 | 25,819,096 |

| | | | |
|----|--|-------|----------------|
| 24 | Child Care – Maintenance of Effort Match | 70800 | 5,693,743 |
| 25 | Grants for Licensed Domestic Violence | | |
| 26 | Programs and Statewide Prevention | 75000 | 2,500,000 |
| 27 | Capital Outlay and Maintenance (R) | 75500 | 11,875 |
| 28 | Community Based Services and | | |
| 29 | Pilot Programs for Youth..... | 75900 | 1,000,000 |
| 30 | Medical Services Administrative Costs | 78900 | 38,127,412 |
| 31 | Traumatic Brain Injury Waiver..... | 83500 | 800,000 |
| 32 | Indigent Burials (R) | 85100 | 2,050,000 |
| 33 | BRIM Premium..... | 91300 | 892,642 |
| 34 | Rural Hospitals Under 150 Beds..... | 94000 | 2,596,000 |
| 35 | Children’s Trust Fund – Transfer..... | 95100 | <u>220,000</u> |
| 36 | Total..... | | \$ 867,565,501 |

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

The secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

The above appropriation for James “Tiger” Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James “Tiger” Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the secretary of the Department of Health and Human Resources.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

The above appropriation for Children’s Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to the Children’s Trust Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

62 - Department of Military Affairs and Public Safety –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2019 Org 0601

| | | | |
|----|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 732,256 |
| 2 | Unclassified (R)09900 | | 18,949 |
| 3 | Current Expenses13000 | | 58,320 |
| 4 | Repairs and Alterations.....06400 | | 2,500 |
| 5 | Equipment07000 | | 2,500 |
| 6 | Fusion Center (R).....46900 | | 542,430 |
| 7 | Other Assets69000 | | 2,500 |
| 8 | Directed Transfer70000 | | 32,000 |
| 9 | BRIM Premium.....91300 | | 18,190 |
| 10 | WV Fire and EMS Survivor Benefit (R)93900 | | 200,000 |
| 11 | Homeland State Security | | |
| 12 | Administrative Agency (R).....95300 | | <u>318,890</u> |
| 13 | Total..... | \$ | 1,928,535 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation

95300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (fund 6003).

63 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2019 Org 0603

| | | | | |
|---|------------------------------------|-------|----|------------------|
| 1 | Unclassified (R) | 09900 | \$ | 106,798 |
| 2 | College Education Fund..... | 23200 | | 4,000,000 |
| 3 | Civil Air Patrol..... | 23400 | | 249,664 |
| 4 | Mountaineer ChalleNGe Academy..... | 70900 | | 1,500,000 |
| 5 | Armory Board Transfer..... | 70015 | | 2,317,555 |
| 6 | Military Authority (R)..... | 74800 | | 6,029,611 |
| 7 | Drug Enforcement and Support | 74801 | | <u>1,500,000</u> |
| 8 | Total..... | | \$ | 15,703,628 |

Any unexpended balance remaining in the appropriations for Unclassified (fund 0433, appropriation 09900) and Military Authority (fund 0433, appropriation 74800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations an amount approved by the Adjutant General and the secretary of Military Affairs and Public Safety may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$4,500,000 to the Mountaineer Challenge Academy to meet anticipated program demand.

64 - Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2019 Org 0603

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 100,000 |
| 2 | Current Expenses | 13000 | <u>57,775</u> |
| 3 | Total..... | \$ | 157,775 |

65 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2019 Org 0605

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 402,254 |
| 2 | Current Expenses | 13000 | 365,234 |
| 3 | Salaries of Members of | | |
| 4 | West Virginia Parole Board..... | 22700 | 609,833 |
| 5 | BRIM Premium..... | 91300 | <u>6,149</u> |
| 6 | Total..... | \$ | 1,383,470 |

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code §5-5-1), and related employee benefits of board members.

*66 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2019 Org 0606

| | | |
|----|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,268,402 |
| 2 | Unclassified.....09900 | 26,342 |
| 3 | Current Expenses13000 | 53,024 |
| 4 | Repairs and Alterations.....06400 | 600 |
| 5 | Radiological Emergency Preparedness.....55400 | 17,052 |
| 6 | SIRN55401 | 600,000 |
| 7 | Federal Funds/Grant Match (R).....74900 | 663,463 |
| 8 | Mine and Industrial Accident Rapid | |
| 9 | Response Call Center.....78100 | 461,355 |
| 10 | Early Warning Flood System (R)87700 | 475,832 |
| 11 | BRIM Premium.....91300 | 96,529 |
| 12 | WVU Charleston Poison Control Hotline.....94400 | <u>712,942</u> |
| 13 | Total..... | \$ 4,375,541 |

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

67 - Division of Corrections –

Central Office

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2019 Org 0608

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 621,000 |
| 2 | Current Expenses | 13000 | <u>2,400</u> |
| 3 | Total..... | \$ | 623,400 |

*68 - Division of Corrections –**Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2019 Org 0608

| | | | | |
|----|---|-------|----|------------|
| 1 | Employee Benefits | 01000 | \$ | 1,258,136 |
| 2 | Children's Protection Act (R) | 09000 | | 838,437 |
| 3 | Unclassified..... | 09900 | | 1,578,800 |
| 4 | Current Expenses (R)..... | 13000 | | 21,151,011 |
| 5 | Facilities Planning and Administration (R) .. | 38600 | | 1,274,200 |
| 6 | Charleston Correctional Center | 45600 | | 3,026,773 |
| 7 | Beckley Correctional Center | 49000 | | 2,027,265 |
| 8 | Anthony Correctional Center | 50400 | | 5,468,335 |
| 9 | Huttonsville Correctional Center | 51400 | | 20,907,772 |
| 10 | Northern Correctional Center..... | 53400 | | 7,205,041 |
| 11 | Inmate Medical Expenses (R) | 53500 | | 21,226,064 |
| 12 | Pruntytown Correctional Center | 54300 | | 7,630,256 |
| 13 | Corrections Academy..... | 56900 | | 1,666,247 |

| | | | |
|----|---|-------|------------------|
| 14 | Information Technology Services..... | 59901 | 2,259,052 |
| 15 | Martinsburg Correctional Center | 66300 | 3,856,727 |
| 16 | Parole Services..... | 68600 | 5,361,413 |
| 17 | Special Services | 68700 | 7,100,452 |
| 18 | Investigative Services | 71600 | 3,129,759 |
| 19 | Capital Outlay and Maintenance (R) | 75500 | 2,000,000 |
| 20 | Salem Correctional Center..... | 77400 | 10,260,770 |
| 21 | McDowell County Correctional Center | 79000 | 2,542,590 |
| 22 | Stevens Correctional Center..... | 79100 | 7,863,195 |
| 23 | Parkersburg Correctional Center..... | 82800 | 3,412,708 |
| 24 | St. Mary's Correctional Center | 88100 | 12,939,805 |
| 25 | Denmar Correctional Center | 88200 | 4,666,171 |
| 26 | Ohio County Correctional Center | 88300 | 1,874,033 |
| 27 | Mt. Olive Correctional Complex | 88800 | 20,063,054 |
| 28 | Lakin Correctional Center..... | 89600 | 9,510,551 |
| 29 | BRIM Premium..... | 91300 | <u>2,527,657</u> |
| 30 | Total..... | | \$ 194,626,274 |

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450,

appropriation 75500), and Security System Improvements – Surplus (fund 0450, appropriation 75501) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The Commissioner of Corrections shall have the authority to transfer between appropriations to the individual correctional units above and may transfer funds from the individual correctional units to Current Expenses (fund 0450, appropriation 13000) or Inmate Medical Expenses (fund 0450, appropriation 53500).

From the above appropriation to Unclassified (fund 0450, appropriation 09900), on July 1, 2018, the sum of \$300,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

69 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2019 Org 0612

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 58,623,980 |
| 2 | Children’s Protection Act09000 | 972,973 |
| 3 | Current Expenses13000 | 10,382,444 |
| 4 | Repairs and Alterations.....06400 | 450,523 |
| 5 | Trooper Class52100 | 4,000,000 |

| | | | |
|----|---|-------|------------------|
| 6 | Barracks Lease Payments | 55600 | 237,898 |
| 7 | Communications and Other Equipment (R) | 55800 | 570,968 |
| 8 | Trooper Retirement Fund..... | 60500 | 5,584,775 |
| 9 | Handgun Administration Expense | 74700 | 72,268 |
| 10 | Capital Outlay and Maintenance (R) | 75500 | 250,000 |
| 11 | Retirement Systems – Unfunded Liability.... | 77500 | 15,415,000 |
| 12 | Automated Fingerprint | | |
| 13 | Identification System..... | 89800 | 3,155,926 |
| 14 | BRIM Premium..... | 91300 | <u>5,743,921</u> |
| 15 | Total..... | | \$ 105,460,676 |

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800), and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2018 are hereby appropriated for expenditure during the fiscal year 2019.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

70 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2019 Org 0619

| | | | |
|---|------------------------|-------|-----------|
| 1 | Current Expenses | 13000 | \$ 64,021 |
|---|------------------------|-------|-----------|

71 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2019 Org 0620

| | | | |
|----|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 550,620 |
| 2 | Current Expenses | 13000 | 133,360 |
| 3 | Repairs and Alterations..... | 06400 | 1,804 |
| 4 | Child Advocacy Centers (R)..... | 45800 | 1,704,001 |
| 5 | Community Corrections (R) | 56100 | 6,919,589 |
| 6 | Statistical Analysis Program..... | 59700 | 48,272 |
| 7 | Sexual Assault Forensic | | |
| 8 | Examination Commission (R) | 71400 | 76,963 |
| 9 | Qualitative Analysis and Training | | |
| 10 | for Youth Services (R)..... | 76200 | 332,446 |
| 11 | Law Enforcement Professional Standards | 83800 | 157,692 |
| 12 | BRIM Premium..... | 91300 | <u>2,123</u> |
| 13 | Total..... | \$ | 9,926,870 |

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546, appropriation 71400), and Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

72 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2019 Org 0621

| | | | |
|----|--|-------|------------------|
| 1 | Statewide Reporting Centers..... | 26200 | \$ 6,730,137 |
| 2 | Robert L. Shell Juvenile Center | 26700 | 2,183,169 |
| 3 | Resident Medical Expenses (R)..... | 53501 | 3,604,999 |
| 4 | Central Office..... | 70100 | 2,496,733 |
| 5 | Capital Outlay and Maintenance (R) | 75500 | 250,000 |
| 6 | Gene Spadaro Juvenile Center | 79300 | 2,356,207 |
| 7 | BRIM Premium..... | 91300 | 115,967 |
| 8 | Kenneth Honey Rubenstein | | |
| 9 | Juvenile Center (R)..... | 98000 | 5,325,233 |
| 10 | Vicki Douglas Juvenile Center | 98100 | 2,083,190 |
| 11 | Northern Regional Juvenile Center..... | 98200 | 2,876,302 |
| 12 | Lorrie Yeager Jr. Juvenile Center | 98300 | 2,118,510 |
| 13 | Sam Perdue Juvenile Center | 98400 | 2,220,766 |
| 14 | Tiger Morton Center | 98500 | 2,322,188 |
| 15 | Donald R. Kuhn Juvenile Center | 98600 | 4,465,381 |
| 16 | J.M. "Chick" Buckbee Juvenile Center | 98700 | <u>2,227,993</u> |
| 17 | Total..... | | \$ 41,376,775 |

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations, on July 1, 2018, the sum of \$50,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

73 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2019 Org 0622

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,894,483 |
| 2 | Unclassified (R)09900 | 21,991 |
| 3 | Current Expenses13000 | 443,357 |
| 4 | Repairs and Alterations.....06400 | 8,500 |
| 5 | Equipment (R).....07000 | 64,171 |
| 6 | BRIM Premium.....91300 | <u>12,226</u> |
| 7 | Total..... | \$ 3,444,728 |

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000), and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

DEPARTMENT OF REVENUE

74 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2019 Org 0701

| | | | |
|---|---|----|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 502,846 |
| 2 | Unclassified.....09900 | | 5,837 |
| 3 | Current Expenses13000 | | 81,594 |
| 4 | Repairs and Alterations.....06400 | | 1,262 |
| 5 | Equipment.....07000 | | 8,000 |
| 6 | Other Assets.....69000 | | <u>500</u> |
| 7 | Total..... | \$ | 600,039 |

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

75 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2019 Org 0702

| | | | |
|---|--|----|------------|
| 1 | Personal Services and | | |
| 2 | Employee Benefits (R)00100 | \$ | 18,211,688 |
| 3 | Unclassified (R)09900 | | 224,578 |
| 4 | Current Expenses (R)13000 | | 5,770,589 |
| 5 | Repairs and Alterations.....06400 | | 10,000 |
| 6 | Equipment.....07000 | | 50,000 |
| 7 | Tax Technology Upgrade09400 | | 3,700,000 |
| 8 | Integrated Tax Assessment System.....29200 | | 5,000,000 |
| 9 | Multi State Tax Commission65300 | | 77,958 |

| | | | |
|----|-------------------|-------|---------------|
| 10 | Other Assets..... | 69000 | 10,000 |
| 11 | BRIM Premium..... | 91300 | <u>15,579</u> |
| 12 | Total..... | | \$ 33,070,392 |

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), and Current Expenses (fund 0470, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

76 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2019 Org 0703

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 672,446 |
| 2 | Unclassified (R) | 09900 | <u>1,199</u> |
| 3 | Total..... | | \$ 673,645 |

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

77 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2019 Org 0709

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 438,046 |
| 2 | Current Expenses (R)..... | 13000 | 93,022 |
| 3 | Unclassified..... | 09900 | 5,255 |
| 4 | BRIM Premium..... | 91300 | <u>3,062</u> |

5 Total..... \$ 539,385

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

78 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2019 Org 0933

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 7,200 |
| 2 | Current Expenses13000 | | <u>29,611</u> |
| 3 | Total..... | \$ | 36,811 |

DEPARTMENT OF TRANSPORTATION

79 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2019 Org 0804

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 319,933 |
| 2 | Current Expenses13000 | | 287,707 |
| 3 | Other Assets (R).....69000 | | 1,303,277 |
| 4 | BRIM Premium.....91300 | | <u>201,541</u> |
| 5 | Total..... | \$ | 2,112,458 |

Any unexpended balance remaining in the appropriation Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

80 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2019 Org 0805

| | | | | |
|---|---------------------------|-------|----|------------------|
| 1 | Equipment (R)..... | 07000 | \$ | 384,710 |
| 2 | Current Expenses (R)..... | 13000 | | <u>1,878,279</u> |
| 3 | Total..... | | \$ | 2,262,989 |

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

81 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2019 Org 0806

| | | | | |
|---|--|-------|----|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 200,000 |
| 2 | Current Expenses | 13000 | | <u>300,000</u> |
| 3 | Total..... | | \$ | 500,000 |

82 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2019 Org 0807

| | | | | |
|---|--|-------|----|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 170,304 |
| 2 | Current Expenses (R)..... | 13000 | | 591,839 |
| 3 | Repairs and Alterations..... | 06400 | | 100 |
| 4 | BRIM Premium..... | 91300 | | <u>4,438</u> |

5 Total..... \$ 766,681

Any unexpended balances remaining in the appropriations for Unclassified (fund 0582, appropriation 09900) and Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

DEPARTMENT OF VETERANS' ASSISTANCE

83 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2019 Org 0613

| | | |
|----|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,887,475 |
| 2 | Unclassified.....09900 | 20,000 |
| 3 | Current Expenses13000 | 140,161 |
| 4 | Repairs and Alterations.....06400 | 5,000 |
| 5 | Veterans' Field Offices22800 | 248,345 |
| 6 | Veterans' Nursing Home (R)28600 | 5,770,950 |
| 7 | Veterans' Toll Free Assistance Line32800 | 2,015 |
| 8 | Veterans' Reeducation Assistance (R).....32900 | 29,502 |
| 9 | Veterans' Grant Program (R).....34200 | 30,741 |
| 10 | Veterans' Grave Markers47300 | 10,254 |
| 11 | Veterans' Transportation48500 | 625,000 |
| 12 | Veterans Outreach Programs61700 | 162,107 |
| 13 | Memorial Day Patriotic Exercise.....69700 | 20,000 |
| 14 | Veterans Cemetery80800 | 382,085 |

| | | | |
|----|-------------------|--------------|--------|
| 15 | BRIM Premium..... | 91300 | 25,530 |
| 16 | Total..... | \$ 9,359,165 | |

Any unexpended balances remaining in the appropriations for Veterans’ Nursing Home (fund 0456, appropriation 28600), Veterans’ Reeducation Assistance (fund 0456, appropriation 32900), Veterans’ Grant Program (fund 0456, appropriation 34200), Veterans’ Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

84 - Department of Veterans’ Assistance –

Veterans’ Home

(WV Code Chapter 9A)

Fund 0460 FY 2019 Org 0618

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 1,148,764 |
| 2 | Current Expenses | 13000 | 46,759 |
| 3 | Total..... | \$ | 1,195,523 |

BUREAU OF SENIOR SERVICES

85 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2019 Org 0508

| | | | |
|---|--|-------|---------------|
| 1 | Transfer to Division of Human Services | | |
| 2 | for Health Care and Title XIX | | |
| 3 | Waiver for Senior Citizens | 53900 | \$ 29,950,955 |

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys

generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY
AND TECHNICAL COLLEGE EDUCATION**

86 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2019 Org 0420

| | | | |
|----|---|-------|------------------|
| 1 | West Virginia Council for Community | | |
| 2 | and Technical Education (R) | 39200 | \$ 730,800 |
| 3 | Transit Training Partnership | 78300 | 34,293 |
| 4 | Community College | | |
| 5 | Workforce Development (R) | 87800 | 2,784,901 |
| 6 | College Transition Program | 88700 | 278,222 |
| 7 | West Virginia Advance | | |
| 8 | Workforce Development (R) | 89300 | 3,118,172 |
| 9 | Technical Program Development (R) | 89400 | <u>1,800,735</u> |
| 10 | Total | | \$ 8,747,123 |

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation

89300), and Technical Program Development (fund 0596, appropriation 89400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for the Community College Workforce Development (fund 0596, appropriation 87800), \$200,000 shall be expended on the Mine Training Program in Southern West Virginia.

Included in the above appropriation for West Virginia Advance Workforce Development (fund 0596, appropriation 89300) is \$200,000 to be used exclusively for advanced manufacturing and energy industry specific training programs.

87 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2019 Org 0444

| | | | |
|---|-------------------------|-------|--------------|
| 1 | Mountwest Community and | | |
| 2 | Technical College | 48700 | \$ 5,505,121 |

88 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2019 Org 0445

| | | | |
|---|-------------------------|-------|--------------|
| 1 | New River Community and | | |
| 2 | Technical College | 35800 | \$ 5,452,807 |

89 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2019 Org 0446

| | | | |
|---|-------------------------|-------|--------------|
| 1 | Pierpont Community and | | |
| 2 | Technical College | 93000 | \$ 7,244,243 |

90 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2019 Org 0447

- 1 Blue Ridge Community and
- 2 Technical College88500 \$ 5,099,246

91 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2019 Org 0464

- 1 West Virginia University – Parkersburg.....47100 \$ 9,495,037

92 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2019 Org 0487

- 1 Southern West Virginia Community and
- 2 Technical College44600 \$ 7,944,214

93 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2019 Org 0489

- 1 West Virginia Northern Community and
- 2 Technical College44700 \$ 6,833,499

94 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2019 Org 0492

- 1 Eastern West Virginia Community and
- 2 Technical College41200 \$ 1,812,537

95 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2019 Org 0493

| | | | |
|---|----------------------------|-------|--------------|
| 1 | BridgeValley Community and | | |
| 2 | Technical College | 71700 | \$ 7,420,648 |

HIGHER EDUCATION POLICY COMMISSION*96 - Higher Education Policy Commission –**Administration –**Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2019 Org 0441

| | | | |
|----|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 2,646,406 |
| 2 | Current Expenses | 13000 | 1,114,959 |
| 3 | Higher Education Grant Program | 16400 | 40,619,864 |
| 4 | Tuition Contract Program (R) | 16500 | 1,224,839 |
| 5 | Underwood-Smith Scholarship | | |
| 6 | Program-Student Awards..... | 16700 | 328,349 |
| 7 | Facilities Planning and Administration..... | 38600 | 1,760,254 |
| 8 | Higher Education System Initiatives..... | 48801 | 1,630,000 |
| 9 | PROMISE Scholarship – Transfer..... | 80000 | 18,500,000 |
| 10 | HEAPS Grant Program (R)..... | 86700 | 5,011,298 |
| 11 | BRIM Premium..... | 91300 | <u>17,817</u> |
| 12 | Total..... | | \$ 72,853,786 |

Any unexpended balances remaining in the appropriations for
Unclassified – Surplus (fund 0589, appropriation 09700), Tuition

Contract Program (fund 0589, appropriation 16500), Capital Improvements – Surplus (fund 0589, appropriation 66100), Capital Outlay and Maintenance (fund 0589, appropriation 75500), and HEAPS Grant Program (fund 0589, appropriation 86700) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program-Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (fund 4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship – Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

97 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B9)

Fund 0551 FY 2019 Org 0495

1 WVNET16900 \$ 1,681,744

*98 - West Virginia University –**School of Medicine**Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2019 Org 0463

| | | | |
|---|---|-------|------------------|
| 1 | WVU School of Health Science – | | |
| 2 | Eastern Division..... | 05600 | \$ 2,158,359 |
| 3 | WVU – School of Health Sciences | 17400 | 16,778,145 |
| 4 | WVU – School of Health Sciences – | | |
| 5 | Charleston Division | 17500 | 2,218,598 |
| 6 | Rural Health Outreach Programs | 37700 | 162,520 |
| 7 | West Virginia University School of Medicine | | |
| 8 | BRIM Subsidy | 46000 | <u>1,203,087</u> |
| 9 | Total..... | | \$ 22,520,709 |

The above appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia University School of Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

*99 - West Virginia University –**General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2019 Org 0463

| | | | |
|---|--|-------|------------------|
| 1 | West Virginia University | 45900 | \$ 93,559,659 |
| 2 | Jackson's Mill | 46100 | 480,879 |
| 3 | West Virginia University | | |
| 4 | Institute of Technology | 47900 | 7,717,964 |
| 5 | State Priorities – Brownfield | | |
| 6 | Professional Development | 53100 | 316,556 |
| 7 | West Virginia University – Potomac State ... | 99400 | <u>3,834,937</u> |
| 8 | Total | | \$ 105,909,995 |

From the above appropriation for Jackson's Mill (fund 0344, appropriation 46100) \$250,000 shall be used for the West Virginia State Fire Training Academy.

*100 - Marshall University –**School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2019 Org 0471

| | | | |
|---|--|-------|----------------|
| 1 | Marshall Medical School | 17300 | \$ 11,774,743 |
| 2 | Rural Health Outreach Programs (R) | 37700 | 156,022 |
| 3 | Forensic Lab | 37701 | 226,009 |
| 4 | Center for Rural Health | 37702 | 153,075 |
| 5 | Marshall University Medical School | | |
| 6 | BRIM Subsidy | 44900 | <u>872,612</u> |
| 7 | Total | | \$ 13,182,461 |

Any unexpended balance remaining in the appropriation for Rural Health Outreach Program (fund 0347, appropriation 37700)

at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Rural Health Outreach Programs (fund 0347, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for Marshall University Medical School BRIM Subsidy (fund 0347, appropriation 44900) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

101 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2019 Org 0471

| | | | |
|----|--------------------------------------|-------|------------------|
| 1 | Marshall University | 44800 | \$ 44,273,845 |
| 2 | Luke Lee Listening Language and | | |
| 3 | Learning Lab..... | 44801 | 96,203 |
| 4 | Vista E-Learning (R)..... | 51900 | 229,019 |
| 5 | State Priorities – Brownfield | | |
| 6 | Professional Development (R)..... | 53100 | 309,606 |
| 7 | Marshall University Graduate College | | |
| 8 | Writing Project (R) | 80700 | 25,412 |
| 9 | WV Autism Training Center (R) | 93200 | <u>1,742,215</u> |
| 10 | Total..... | | \$ 46,676,300 |

Any unexpended balances remaining in the appropriations for Vista E-Learning (fund 0348, appropriation 51900), State Priorities

– Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

102 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2019 Org 0476

| | | | |
|---|--|-------|----------------|
| 1 | West Virginia School of | | |
| 2 | Osteopathic Medicine | 17200 | \$ 6,683,018 |
| 3 | Rural Health Outreach Programs (R)..... | 37700 | 163,299 |
| 4 | West Virginia School of Osteopathic Medicine | | |
| 5 | BRIM Subsidy | 40300 | 153,405 |
| 6 | Rural Health Initiative – | | |
| 7 | Medical Schools Support..... | 58100 | <u>391,968</u> |
| 8 | Total..... | | \$ 7,391,690 |

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia School of Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation 40300) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.

103 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2019 Org 0482

1 Bluefield State College40800 \$ 5,600,993

104 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2019 Org 0483

1 Concord University41000 \$ 8,552,843

105 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2019 Org 0484

1 Fairmont State University41400 \$ 15,111,777

106 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2019 Org 0485

1 Glenville State College42800 \$ 5,885,700

107 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2019 Org 0486

1 Shepherd University43200 \$ 9,671,542

108 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2019 Org 0488

1 West Liberty University.....43900 \$ 7,823,727

109 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2019 Org 0490

1 West Virginia State University44100 \$ 9,861,240

2 West Virginia State University

3 Land Grant Match.....95600 1,586,340

4 Total..... \$ 11,447,580

5 Total TITLE II, Section 1 – General Revenue

6 (Including claims against the state)..... \$4,381,808,884

Sec. 2. Appropriations from state road fund. — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2019.

DEPARTMENT OF TRANSPORTATION

110 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2019 Org 0802

| | Appropriation | State Road Fund |
|---|----------------------|------------------------|
| 1 Personal Services and Employee Benefits00100 | \$ 23,378,949 | |
| 2 Current Expenses | 13000 | 16,181,042 |

| | | | |
|---|------------------------------|-------|---------------|
| 3 | Repairs and Alterations..... | 06400 | 144,000 |
| 4 | Equipment..... | 07000 | 1,080,000 |
| 5 | Buildings..... | 25800 | 10,000 |
| 6 | Other Assets..... | 69000 | 2,600,000 |
| 7 | BRIM Premium..... | 91300 | <u>84,738</u> |
| 8 | Total..... | | \$ 43,478,729 |

III - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2019 Org 0803

| | | | |
|----|----------------------------------|-------|------------------|
| 1 | Debt Service..... | 04000 | \$ 89,000,000 |
| 2 | Maintenance..... | 23700 | 386,386,000 |
| 3 | Nonfederal Improvements | 23701 | 156,500,000 |
| 4 | Inventory Revolving | 27500 | 4,000,000 |
| 5 | Equipment Revolving | 27600 | 22,500,000 |
| 6 | General Operations | 27700 | 68,295,000 |
| 7 | Interstate Construction..... | 27800 | 95,000,000 |
| 8 | Other Federal Aid Programs | 27900 | 370,000,000 |
| 9 | Appalachian Programs | 28000 | 110,000,000 |
| 10 | Highway Litter Control..... | 28200 | 1,719,000 |
| 11 | Courtesy Patrol..... | 28201 | <u>5,000,000</u> |
| 12 | Total..... | | \$ 1,308,400,000 |

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

112 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2019 Org 0808

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,585,201 |
| 2 | Current Expenses13000 | | 338,278 |
| 3 | Repairs and Alterations.....06400 | | 3,000 |
| 4 | Equipment.....07000 | | 15,500 |
| 5 | BRIM Premium.....91300 | | <u>10,000</u> |
| 6 | Total..... | \$ | 1,951,979 |
| 7 | Total TITLE II, Section 2 – State Road Fund | | |

8 (Including claims against the state)..... \$1,352,461,019

Sec. 3. Appropriations from other funds. — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2019.

LEGISLATIVE

113 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2019 Org 2300

| | Appropriation | Other Funds |
|---|----------------------|--------------------|
| 1 Personal Services and Employee Benefits00100 | \$ 498,020 | |
| 2 Current Expenses | 13000 | 133,903 |
| 3 Repairs and Alterations.....06400 | | 1,000 |
| 4 Economic Loss Claim Payment Fund.....33400 | | 2,360,125 |
| 5 Other Assets.....69000 | | <u>3,700</u> |
| 6 Total..... | \$ 2,996,748 | |

JUDICIAL

114 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2019 Org 2400

| | | |
|--------------------------|-------|--------------|
| 1 Current Expenses | 13000 | \$ 1,600,000 |
|--------------------------|-------|--------------|

*115 - Supreme Court –**Court Advanced Technology Subscription Fund*

(WV Code Chapter 51)

Fund 1704 FY 2019 Org 2400

| | | | | |
|---|------------------------|-------|----|---------|
| 1 | Current Expenses | 13000 | \$ | 500,000 |
|---|------------------------|-------|----|---------|

*116 - Supreme Court –**Adult Drug Court Participation Fund*

(WV Code Chapter 62)

Fund 1705 FY 2019 Org 2400

| | | | | |
|---|------------------------|-------|----|---------|
| 1 | Current Expenses | 13000 | \$ | 300,000 |
|---|------------------------|-------|----|---------|

EXECUTIVE*117 - Governor's Office –**Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2019 Org 0100

| | | | | |
|---|---|--|----|---------|
| 1 | Personal Services and Employee Benefits00100 | | \$ | 172,800 |
|---|---|--|----|---------|

| | | | | |
|---|------------------------|-------|--|---------|
| 2 | Current Expenses | 13000 | | 503,200 |
|---|------------------------|-------|--|---------|

| | | | | |
|---|-------------------------|--|--|--|
| 3 | Martin Luther King, Jr. | | | |
|---|-------------------------|--|--|--|

| | | | | |
|---|-------------------------------|--|--|--------------|
| 4 | Holiday Celebration.....03100 | | | <u>8,926</u> |
|---|-------------------------------|--|--|--------------|

| | | | | |
|---|------------|--|----|---------|
| 5 | Total..... | | \$ | 684,926 |
|---|------------|--|----|---------|

*118 - Auditor's Office –**Land Operating Fund*

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2019 Org 1200

| | | | |
|---|---|----|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 749,297 |
| 2 | Unclassified.....09900 | | 15,139 |
| 3 | Current Expenses13000 | | 715,291 |
| 4 | Repairs and Alterations.....06400 | | 2,600 |
| 5 | Equipment.....07000 | | 426,741 |
| 6 | Cost of Delinquent Land Sales.....76800 | | <u>1,341,168</u> |
| 7 | Total..... | \$ | 3,250,236 |

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

119 - Auditor's Office -

Local Government Purchasing Card Expenditure Fund

(WV Code Chapter 6)

Fund 1224 FY 2019 Org 1200

| | | | |
|---|---|----|---------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 588,283 |
| 2 | Current Expenses13000 | | 282,030 |
| 3 | Repairs and Alterations.....06400 | | 6,000 |
| 4 | Equipment.....07000 | | 10,805 |
| 5 | Other Assets.....69000 | | 50,000 |

| | | | |
|---|-------------------------------------|--------------|-----------|
| 6 | Statutory Revenue Distribution..... | 74100 | 2,350,000 |
| 7 | Total..... | \$ 3,287,118 | |

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2019 Org 1200

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 2,375,836 |
| 2 | Unclassified..... | 09900 | 31,866 |
| 3 | Current Expenses | 13000 | 1,463,830 |
| 4 | Repairs and Alterations..... | 06400 | 12,400 |
| 5 | Equipment..... | 07000 | 394,700 |
| 6 | Other Assets..... | 69000 | 900,000 |
| 7 | Total..... | | \$ 5,178,632 |

121 - Auditor's Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2019 Org 1200

| | | | |
|---|------------------------|-------|-----------|
| 1 | Current Expenses | 13000 | \$ 10,000 |
| 2 | Other Assets..... | 69000 | 5,000 |
| 3 | Total..... | | \$ 15,000 |

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer’s Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

122 - Auditor’s Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2019 Org 1200

| | | |
|---|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,667,397 |
| 2 | Current Expenses13000 | 2,303,622 |
| 3 | Repairs and Alterations.....06400 | 5,500 |
| 4 | Equipment.....07000 | 650,000 |
| 5 | Other Assets.....69000 | 308,886 |
| 6 | Statutory Revenue Distribution.....74100 | <u>8,000,000</u> |
| 7 | Total..... | \$ 13,935,405 |

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

123 - Auditor’s Office –

Chief Inspector’s Fund

(WV Code Chapter 6)

Fund 1235 FY 2019 Org 1200

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 3,405,512 |
|---|---|--------------|

| | | | |
|---|------------------------|-------|---------------|
| 2 | Current Expenses | 13000 | 765,915 |
| 3 | Equipment | 07000 | <u>50,000</u> |
| 4 | Total | | \$ 4,221,427 |

124 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2019 Org 1200

| | | | |
|---|-------------------------------------|-------|--------------|
| 1 | Volunteer Fire Department | | |
| 2 | Workers' Compensation Subsidy | 83200 | \$ 2,500,000 |

125 - Treasurer's Office

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2019 Org 1300

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 774,769 |
| 2 | Unclassified..... | 09900 | 14,000 |
| 3 | Current Expenses | 13000 | <u>619,862</u> |
| 4 | Total | | \$ 1,408,631 |

126 - Department of Agriculture –

Agriculture Fees Fund

(WV Code Chapter 19)

Fund 1401 FY 2019 Org 1400

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,244,245 |
| 2 | Unclassified.....09900 | 37,425 |
| 3 | Current Expenses13000 | 1,856,184 |
| 4 | Repairs and Alterations.....06400 | 158,500 |
| 5 | Equipment.....07000 | 436,209 |
| 6 | Other Assets.....69000 | <u>10,000</u> |
| 7 | Total..... | \$ 4,742,563 |

127 - Department of Agriculture –

West Virginia Rural Rehabilitation Program

(WV Code Chapter 19)

Fund 1408 FY 2019 Org 1400

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 73,807 |
| 2 | Unclassified.....09900 | 10,476 |
| 3 | Current Expenses13000 | <u>963,404</u> |
| 4 | Total..... | \$ 1,047,687 |

128 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2019 Org 1400

| | | |
|---|---|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ 67,000 |
| 2 | Unclassified.....09900 | 2,100 |
| 3 | Current Expenses13000 | 89,500 |

| | | |
|---|-----------------------------------|---------------|
| 4 | Repairs and Alterations.....06400 | 36,400 |
| 5 | Equipment.....07000 | <u>15,000</u> |
| 6 | Total..... | \$ 210,000 |

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

129 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2019 Org 1400

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 809,248 |
| 2 | Unclassified.....09900 | 15,173 |
| 3 | Current Expenses13000 | 1,367,464 |
| 4 | Repairs and Alterations.....06400 | 388,722 |
| 5 | Equipment.....07000 | 399,393 |
| 6 | Other Assets.....69000 | <u>20,000</u> |
| 7 | Total..... | \$ 3,000,000 |

130 - Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2019 Org 1400

| | | |
|---|---|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 958,864 |
| 2 | Unclassified.....09900 | 45,807 |
| 3 | Current Expenses13000 | 3,410,542 |

| | | |
|---|-----------------------------------|---------------|
| 4 | Repairs and Alterations.....06400 | 128,500 |
| 5 | Equipment.....07000 | 10,000 |
| 6 | Other Assets.....69000 | <u>27,000</u> |
| 7 | Total..... | \$ 4,580,713 |

*131 - Department of Agriculture –
Integrated Predation Management Fund
(WV Code Chapter 7)*

Fund 1465 FY 2019 Org 1400

| | | | |
|---|------------------------|-------|------------|
| 1 | Current Expenses | 13000 | \$ 100,000 |
|---|------------------------|-------|------------|

*132 - Department of Agriculture –
West Virginia Spay Neuter Assistance Fund
(WV Code Chapter 19)*

Fund 1481 FY 2019 Org 1400

| | | | |
|---|------------------------|-------|------------|
| 1 | Current Expenses | 13000 | \$ 500,000 |
|---|------------------------|-------|------------|

*133 - Department of Agriculture –
Veterans and Warriors to Agriculture Fund
(WV Code Chapter 19)*

Fund 1483 FY 2019 Org 1400

| | | | |
|---|------------------------|-------|----------|
| 1 | Current Expenses | 13000 | \$ 7,500 |
|---|------------------------|-------|----------|

*134 - Department of Agriculture –
State FFA-FHA Camp and Conference Center
(WV Code Chapters 18 and 18A)*

Fund 1484 FY 2019 Org 1400

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,169,194 |
| 2 | Unclassified.....09900 | | 17,000 |
| 3 | Current Expenses13000 | | 1,143,306 |
| 4 | Repairs and Alterations.....06400 | | 82,500 |
| 5 | Equipment.....07000 | | 76,000 |
| 6 | Buildings.....25800 | | 1,000 |
| 7 | Other Assets.....69000 | | 10,000 |
| 8 | Land73000 | | <u>1,000</u> |
| 9 | Total..... | \$ | 2,500,000 |

135 - Attorney General –

Antitrust Enforcement Fund

(WV Code Chapter 47)

Fund 1507 FY 2019 Org 1500

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 356,900 |
| 2 | Current Expenses13000 | | 148,803 |
| 3 | Repairs and Alterations.....06400 | | 1,000 |
| 4 | Equipment.....07000 | | <u>1,000</u> |
| 5 | Total..... | \$ | 507,703 |

136 - Attorney General –

Preneed Burial Contract Regulation Fund

(WV Code Chapter 47)

Fund 1513 FY 2019 Org 1500

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 210,226 |
| 2 | Current Expenses | | 54,615 |
| 3 | Repairs and Alterations.....06400 | | 1,000 |
| 4 | Equipment.....07000 | | <u>1,000</u> |
| 5 | Total..... | \$ | 266,841 |

137 - Attorney General –

Preneed Funeral Guarantee Fund

(WV Code Chapter 47)

Fund 1514 FY 2019 Org 1500

| | | | |
|---|------------------------|----|---------|
| 1 | Current Expenses | \$ | 901,135 |
|---|------------------------|----|---------|

138 - Secretary of State –

Service Fees and Collection Account

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2019 Org 1600

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 991,051 |
| 2 | Unclassified.....09900 | | 4,524 |
| 3 | Current Expenses | | <u>8,036</u> |
| 4 | Total..... | \$ | 1,003,611 |

139 - Secretary of State –

General Administrative Fees Account

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2019 Org 1600

| | | |
|---|--|----------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 2,769,898 |
| 2 | Unclassified.....09900 | 25,529 |
| 3 | Current Expenses13000 | 796,716 |
| 4 | Technology Improvements59900 | <u>750,000</u> |
| 5 | Total..... | \$ 4,342,143 |

DEPARTMENT OF ADMINISTRATION*140 - Department of Administration –**Office of the Secretary –**Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2019 Org 0201

| | | |
|---|-----------------------------------|---------------|
| 1 | Tobacco Settlement Securitization | |
| 2 | Trustee Pass Thru65000 | \$ 80,000,000 |

*141 - Department of Administration –**Office of the Secretary –**Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2019 Org 0201

| | | |
|---|-----------------------------|---------------|
| 1 | Current Expenses13000 | \$ 35,000,000 |
|---|-----------------------------|---------------|

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

*142 - Department of Administration –**Division of Finance –**Shared Services Section Fund*

(WV Code Chapter 5A)

Fund ____ FY 2019 Org 0209

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,500,000 |
| 2 | Current Expenses13000 | <u>500,000</u> |
| 3 | Total..... | \$ 2,000,000 |

143 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2019 Org 0210

| | | |
|---|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 21,378,322 |
| 2 | Unclassified.....09900 | 382,354 |
| 3 | Current Expenses13000 | 13,378,766 |
| 4 | Repairs and Alterations06400 | 1,000 |
| 5 | Equipment.....07000 | 2,050,000 |
| 6 | Other Assets69000 | <u>1,045,000</u> |
| 7 | Total..... | \$ 38,235,442 |

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all

postage meter service and shall reimburse the revolving fund monthly for all such amounts.

144 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2019 Org 0213

| | | | |
|---|---|----|---------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 655,208 |
| 2 | Unclassified.....09900 | | 2,382 |
| 3 | Current Expenses13000 | | 238,115 |
| 4 | Repairs and Alterations.....06400 | | 5,000 |
| 5 | Equipment.....07000 | | 2,500 |
| 6 | Other Assets.....69000 | | 2,500 |
| 7 | BRIM Premium.....91300 | | 810 |
| 8 | Total..... | \$ | 906,515 |

145 - Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2019 Org 0213

| | | | |
|---|---|----|---------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 739,272 |
| 2 | Unclassified.....09900 | | 5,562 |
| 3 | Current Expenses13000 | | 393,066 |
| 4 | Repairs and Alterations.....06400 | | 500 |
| 5 | Equipment.....07000 | | 500 |

| | | | |
|---|-------------------|--------------|------------|
| 6 | Other Assets..... | 69000 | 500 |
| 7 | BRIM Premium..... | 91300 | <u>850</u> |
| 8 | Total..... | \$ 1,140,250 | |

146 - Travel Management –

Fleet Management Office Fund

(WV Code Chapter 5A)

Fund 2301 FY 2019 Org 0215

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 722,586 |
| 2 | Unclassified..... | 09900 | 4,000 |
| 3 | Current Expenses | 13000 | 8,130,614 |
| 4 | Repairs and Alterations..... | 06400 | 12,000 |
| 5 | Equipment..... | 07000 | 800,000 |
| 6 | Other Assets..... | 69000 | <u>2,000</u> |
| 7 | Total..... | | \$ 9,671,200 |

147 - Travel Management –

Aviation Fund

(WV Code Chapter 5A)

Fund 2302 FY 2019 Org 0215

| | | | |
|---|------------------------------|-------|-----------|
| 1 | Unclassified..... | 09900 | \$ 1,000 |
| 2 | Current Expenses | 13000 | 149,700 |
| 3 | Repairs and Alterations..... | 06400 | 1,175,237 |
| 4 | Equipment..... | 07000 | 1,000 |

| | | | |
|---|-------------------|--------------|------------|
| 5 | Buildings..... | 25800 | 100 |
| 6 | Other Assets..... | 69000 | 100 |
| 7 | Land..... | 73000 | <u>100</u> |
| 8 | Total..... | \$ 1,327,237 | |

148 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2019 Org 0222

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 4,442,590 |
| 2 | Unclassified..... | 09900 | 51,418 |
| 3 | Current Expenses..... | 13000 | 1,262,813 |
| 4 | Repairs and Alterations..... | 06400 | 5,000 |
| 5 | Equipment..... | 07000 | 20,000 |
| 6 | Other Assets..... | 69000 | <u>60,000</u> |
| 7 | Total..... | | \$ 5,841,821 |

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

149 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2019 Org 0228

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 249,242 |
| 2 | Unclassified..... | 09900 | 4,023 |
| 3 | Current Expenses..... | 13000 | 297,528 |

| | | | |
|---|------------------------------|-------|------------|
| 4 | Repairs and Alterations..... | 06400 | 600 |
| 5 | Equipment..... | 07000 | 500 |
| 6 | Other Assets..... | 69000 | <u>500</u> |
| 7 | Total..... | \$ | 552,393 |

150 - Office of Technology –

Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2019 Org 0231

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 399,911 |
| 2 | Unclassified..... | 09900 | 6,949 |
| 3 | Current Expenses..... | 13000 | 227,116 |
| 4 | Repairs and Alterations..... | 06400 | 1,000 |
| 5 | Equipment..... | 07000 | 50,000 |
| 6 | Other Assets..... | 69000 | <u>10,000</u> |
| 7 | Total..... | \$ | 694,976 |

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

151 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2019 Org 0305

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 1,464,328 |
|---|---|-------|--------------|

| | | | |
|---|------------------------------|-------|----------------|
| 2 | Current Expenses | 13000 | 282,202 |
| 3 | Repairs and Alterations..... | 06400 | 53,000 |
| 4 | Equipment | 07000 | <u>300,000</u> |
| 5 | Total..... | | \$ 2,099,530 |

152 - Division of Forestry –

Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2019 Org 0305

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 224,433 |
| 2 | Current Expenses | 13000 | 87,036 |
| 3 | Repairs and Alterations..... | 06400 | <u>11,250</u> |
| 4 | Total..... | | \$ 322,719 |

153 - Division of Forestry –

Severance Tax Operations

(WV Code Chapter 11)

Fund 3084 FY 2019 Org 0305

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 859,626 |
| 2 | Current Expenses | 13000 | <u>435,339</u> |
| 3 | Total..... | | \$ 1,294,965 |

154 - Geological and Economic Survey –

Geological and Analytical Services Fund

(WV Code Chapter 29)

Fund 3100 FY 2019 Org 0306

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 37,966 |
| 2 | Unclassified.....09900 | | 2,182 |
| 3 | Current Expenses13000 | | 141,631 |
| 4 | Repairs and Alterations.....06400 | | 50,000 |
| 5 | Equipment.....07000 | | 20,000 |
| 6 | Other Assets.....69000 | | <u>10,000</u> |
| 7 | Total..... | \$ | 261,779 |

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

155 - West Virginia Development Office –

Department of Commerce –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2019 Org 0307

| | | | |
|---|---|----|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,528,219 |
| 2 | Unclassified.....09900 | | 30,000 |
| 3 | Current Expenses13000 | | <u>1,482,760</u> |
| 4 | Total..... | \$ | 3,040,979 |

156 - West Virginia Development Office –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2019 Org 0307

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 430,724 |
| 2 | Unclassified.....09900 | | 8,300 |
| 3 | Current Expenses13000 | | <u>399,191</u> |
| 4 | Total..... | \$ | 838,215 |

157 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2019 Org 0308

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 300,000 |
| 2 | Unclassified.....09900 | | 4,000 |
| 3 | Current Expenses13000 | | 85,000 |
| 4 | Repairs and Alterations.....06400 | | 1,500 |
| 5 | Buildings.....25800 | | 1,000 |
| 6 | BRIM Premium.....91300 | | <u>8,500</u> |
| 7 | Total..... | \$ | 400,000 |

158 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2019 Org 0308

| | | | |
|---|---|----|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 3,019,374 |
| 2 | Unclassified.....09900 | | 21,589 |
| 3 | Current Expenses13000 | | 597,995 |

| | | | |
|---|------------------------------|-------|--------------|
| 4 | Repairs and Alterations..... | 06400 | 15,000 |
| 5 | Buildings..... | 25800 | 5,000 |
| 6 | BRIM Premium..... | 91300 | <u>8,500</u> |
| 7 | Total..... | | \$ 3,667,458 |

*159 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2019 Org 0308

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 376,772 |
| 2 | Unclassified..... | 09900 | 2,261 |
| 3 | Current Expenses | 13000 | 44,112 |
| 4 | Repairs and Alterations..... | 06400 | 2,000 |
| 5 | Buildings..... | 25800 | 1,000 |
| 6 | BRIM Premium..... | 91300 | <u>8,500</u> |
| 7 | Total..... | | \$ 434,645 |

*160 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2019 Org 0308

| | | | |
|---|---|-------|-----------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 80,000 |
| 2 | Unclassified..... | 09900 | 1,000 |
| 3 | Current Expenses | 13000 | 15,000 |

| | | |
|---|-----------------------------------|--------------|
| 4 | Repairs and Alterations.....06400 | 2,000 |
| 5 | Buildings.....25800 | 1,000 |
| 6 | BRIM Premium.....91300 | <u>1,000</u> |
| 7 | Total..... | \$ 100,000 |

161 - Division of Labor –

Crane Operator Certification Fund

(WV Code Chapter 21)

Fund 3191 FY 2019 Org 0308

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 184,380 |
| 2 | Unclassified.....09900 | 1,380 |
| 3 | Current Expenses13000 | 49,765 |
| 4 | Repairs and Alterations.....06400 | 1,500 |
| 5 | Buildings.....25800 | 1,000 |
| 6 | BRIM Premium.....91300 | <u>8,500</u> |
| 7 | Total..... | \$ 246,525 |

162 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2019 Org 0308

| | | |
|---|---|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 179,316 |
| 2 | Unclassified.....09900 | 1,281 |
| 3 | Current Expenses13000 | 44,520 |

| | | | |
|---|------------------------------|-------|--------------|
| 4 | Repairs and Alterations..... | 06400 | 2,000 |
| 5 | Buildings..... | 25800 | 1,000 |
| 6 | BRIM Premium..... | 91300 | <u>8,500</u> |
| 7 | Total..... | | \$ 236,617 |

163 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2019 Org 0308

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 283,768 |
| 2 | Unclassified..... | 09900 | 1,847 |
| 3 | Current Expenses | 13000 | 43,700 |
| 4 | Repairs and Alterations..... | 06400 | 1,000 |
| 5 | Buildings..... | 25800 | 1,000 |
| 6 | BRIM Premium..... | 91300 | <u>3,404</u> |
| 7 | Total..... | | \$ 334,719 |

164 - Division of Labor –

Bedding and Upholstery Fund

(WV Code Chapter 21)

Fund 3198 FY 2019 Org 0308

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 150,000 |
| 2 | Unclassified..... | 09900 | 2,000 |
| 3 | Current Expenses | 13000 | 43,000 |

| | | | |
|---|------------------------------|-------|--------------|
| 4 | Repairs and Alterations..... | 06400 | 2,000 |
| 5 | Buildings..... | 25800 | 1,000 |
| 6 | BRIM Premium..... | 91300 | <u>2,000</u> |
| 7 | Total..... | | \$ 200,000 |

165 - Division of Labor –

Psychophysiological Examiners Fund

(WV Code Chapter 21)

Fund 3199 FY 2019 Org 0308

| | | | |
|---|------------------------|-------|----------|
| 1 | Current Expenses | 13000 | \$ 4,000 |
|---|------------------------|-------|----------|

166 - Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2019 Org 0310

| | | | |
|---|--------------------------|-------|------------------|
| 1 | Wildlife Resources..... | 02300 | \$ 7,064,884 |
| 2 | Administration | 15500 | 1,766,221 |
| 3 | Capital Improvements and | | |
| 4 | Land Purchase (R) | 24800 | 1,766,220 |
| 5 | Law Enforcement..... | 80600 | <u>7,064,884</u> |
| 6 | Total..... | | \$ 17,662,209 |

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200,

appropriation 24800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

167 - Division of Natural Resources –

Natural Resources Game Fish and Aquatic Life Fund

(WV Code Chapter 22)

Fund 3202 FY 2019 Org 0310

| | | | | |
|---|------------------------|-------|----|---------|
| 1 | Current Expenses | 13000 | \$ | 125,000 |
|---|------------------------|-------|----|---------|

168 - Division of Natural Resources –

Nongame Fund

(WV Code Chapter 20)

Fund 3203 FY 2019 Org 0310

| | | | | |
|---|---|-------|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | | \$ | 678,109 |
| 2 | Current Expenses | 13000 | | 201,930 |
| 3 | Equipment | 07000 | | <u>106,615</u> |
| 4 | Total | | \$ | 986,654 |

169 - Division of Natural Resources –

Planning and Development Division

(WV Code Chapter 20)

Fund 3205 FY 2019 Org 0310

| | | | | |
|---|---|-------|----|---------|
| 1 | Personal Services and Employee Benefits00100 | | \$ | 437,496 |
| 2 | Current Expenses | 13000 | | 157,864 |
| 3 | Repairs and Alterations | 06400 | | 15,016 |
| 4 | Equipment | 07000 | | 8,300 |

| | | | |
|---|-------------------|-------|---------------|
| 5 | Buildings..... | 25800 | 8,300 |
| 6 | Other Assets..... | 69000 | 2,000,000 |
| 7 | Land..... | 73000 | <u>31,700</u> |
| 8 | Total..... | | \$ 2,658,676 |

*170 - Division of Natural Resources –
Whitewater Study and Improvement Fund
(WV Code Chapter 20)*

Fund 3253 FY 2019 Org 0310

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 62,704 |
| 2 | Current Expenses..... | 13000 | 64,778 |
| 3 | Equipment..... | 07000 | 1,297 |
| 4 | Buildings..... | 25800 | <u>6,969</u> |
| 5 | Total..... | | \$ 135,748 |

*171 - Division of Natural Resources –
Whitewater Advertising and Promotion Fund
(WV Code Chapter 20)*

Fund 3256 FY 2019 Org 0310

| | | | |
|---|-----------------------|-------|---------------|
| 1 | Unclassified..... | 09900 | \$ 200 |
| 2 | Current Expenses..... | 13000 | <u>19,800</u> |
| 3 | Total..... | | \$ 20,000 |

*172 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2019 Org 0314

| | | | |
|---|---|----|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 471,606 |
| 2 | WV Mining Extension Service02600 | | 150,000 |
| 3 | Unclassified.....09900 | | 40,985 |
| 4 | Current Expenses13000 | | 1,954,557 |
| 5 | Buildings25800 | | 481,358 |
| 6 | Land73000 | | <u>1,000,000</u> |
| 7 | Total..... | \$ | 4,098,506 |

173 - Department of Commerce –

Office of the Secretary –

Broadband Enhancement Fund

Fund 3013 FY 2019 Org 0327

| | | | |
|---|-----------------------------|----|-----------|
| 1 | Current Expenses13000 | \$ | 1,431,043 |
|---|-----------------------------|----|-----------|

174 - Office of Energy –

Energy Assistance

(WV Code Chapter 5B)

Fund 3010 FY 2019 Org 0328

| | | | |
|---|--------------------------------------|----|-------|
| 1 | Energy Assistance – Total64700 | \$ | 7,211 |
|---|--------------------------------------|----|-------|

DEPARTMENT OF EDUCATION

175 - State Board of Education –

Strategic Staff Development

(WV Code Chapter 18)

Fund 3937 FY 2019 Org 0402

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 134,000 |
| 2 | Unclassified.....09900 | | 1,000 |
| 3 | Current Expenses13000 | | <u>765,000</u> |
| 4 | Total..... | \$ | 900,000 |

*176 - State Board of Education –**School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2019 Org 0402

| | | | |
|---|------------------------------------|----|------------------|
| 1 | SBA Construction Grants24000 | \$ | 35,845,818 |
| 2 | Directed Transfer70000 | | <u>1,371,182</u> |
| 3 | Total..... | \$ | 37,217,000 |

The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (3959) for the administrative expenses of the School Building Authority.

177 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2019 Org 0402

| | | | |
|---|---|----|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,085,152 |
| 2 | Current Expenses13000 | | 244,100 |
| 3 | Repairs and Alterations.....06400 | | 13,150 |

| | | | |
|---|----------------|--------------|--------|
| 4 | Equipment..... | 07000 | 26,000 |
| 5 | Total..... | \$ 1,368,402 | |

DEPARTMENT OF EDUCATION AND THE ARTS

178 - Office of the Secretary –

Lottery Education Fund Interest Earnings –

Control Account

(WV Code Chapter 29)

Fund 3508 FY 2019 Org 0431

Any unexpended balance remaining in the appropriation for Educational Enhancements (fund 3508, appropriation 69500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

179 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2019 Org 0432

| | | | |
|---|--|--------------|------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 211,418 |
| 2 | Current Expenses | 13000 | 862,241 |
| 3 | Equipment..... | 07000 | 75,000 |
| 4 | Buildings..... | 25800 | 1,000 |
| 5 | Other Assets..... | 69000 | 52,328 |
| 6 | Land | 73000 | 1,000 |
| 7 | Total..... | \$ 1,202,987 | |

*180 - State Board of Rehabilitation –**Division of Rehabilitation Services –**West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2019 Org 0932

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 119,738 |
| 2 | Current Expenses13000 | | 2,180,122 |
| 3 | Repairs and Alterations.....06400 | | 85,500 |
| 4 | Equipment.....07000 | | 220,000 |
| 5 | Buildings.....25800 | | 150,000 |
| 6 | Other Assets.....69000 | | <u>150,000</u> |
| 7 | Total..... | \$ | 2,905,360 |

DEPARTMENT OF ENVIRONMENTAL PROTECTION*181 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2019 Org 0312

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 802,269 |
| 2 | Current Expenses13000 | | 2,060,997 |
| 3 | Repairs and Alterations.....06400 | | 1,000 |
| 4 | Equipment.....07000 | | 5,000 |
| 5 | Other Assets.....69000 | | <u>4,403</u> |
| 6 | Total..... | \$ | 2,873,669 |

*182 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2019 Org 0313

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 692,784 |
| 2 | Current Expenses13000 | | 190,569 |
| 3 | Repairs and Alterations06400 | | 500 |
| 4 | Equipment07000 | | 1,505 |
| 5 | Unclassified09900 | | 8,072 |
| 6 | Other Assets69000 | | <u>2,000</u> |
| 7 | Total..... | \$ | 895,430 |

*183 - Division of Environmental Protection –
Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2019 Org 0313

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 935,324 |
| 2 | Current Expenses13000 | | 1,226,863 |
| 3 | Repairs and Alterations06400 | | 13,000 |
| 4 | Equipment07000 | | 53,105 |
| 5 | Unclassified09900 | | 14,647 |
| 6 | Other Assets69000 | | <u>20,000</u> |
| 7 | Total..... | \$ | 2,262,939 |

*184 - Division of Environmental Protection –**Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2019 Org 0313

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,350,829 |
| 2 | Current Expenses | 13000 | 16,402,506 |
| 3 | Repairs and Alterations | 06400 | 79,950 |
| 4 | Equipment | 07000 | 130,192 |
| 5 | Other Assets | 69000 | <u>32,000</u> |
| 6 | Total | | \$ 17,995,477 |

*185 - Division of Environmental Protection –**Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2019 Org 0313

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 143,906 |
| 2 | Current Expenses | 13000 | <u>356,094</u> |
| 3 | Total | | \$ 500,000 |

*186 - Division of Environmental Protection –**Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2019 Org 0313

| | | | |
|---|---|----|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 3,321,164 |
|---|---|----|-----------|

| | | | |
|---|------------------------------|-------|---------------|
| 2 | Current Expenses | 13000 | 1,237,758 |
| 3 | Repairs and Alterations..... | 06400 | 40,600 |
| 4 | Equipment..... | 07000 | 8,000 |
| 5 | Unclassified..... | 09900 | 44,700 |
| 6 | Other Assets..... | 69000 | <u>15,000</u> |
| 7 | Total..... | | \$ 4,667,222 |

187 - Division of Environmental Protection –

Mining and Reclamation Operations Fund

(WV Code Chapter 22)

Fund 3324 FY 2019 Org 0313

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 4,035,449 |
| 2 | Current Expenses | 13000 | 2,302,231 |
| 3 | Repairs and Alterations..... | 06400 | 60,260 |
| 4 | Equipment..... | 07000 | 83,000 |
| 5 | Unclassified..... | 09900 | 920 |
| 6 | Other Assets..... | 69000 | <u>57,500</u> |
| 7 | Total..... | | \$ 6,539,360 |

188 - Division of Environmental Protection –

Underground Storage Tank

Administrative Fund

(WV Code Chapter 22)

Fund 3325 FY 2019 Org 0313

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 466,543 |
| 2 | Current Expenses | 13000 | 318,420 |
| 3 | Repairs and Alterations..... | 06400 | 5,350 |
| 4 | Equipment..... | 07000 | 3,610 |
| 5 | Unclassified..... | 09900 | 7,520 |
| 6 | Other Assets..... | 69000 | <u>3,500</u> |
| 7 | Total..... | \$ | 804,943 |

189 - Division of Environmental Protection –

Hazardous Waste Emergency Response Fund

(WV Code Chapter 22)

Fund 3331 FY 2019 Org 0313

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 6,000 |
| 2 | Current Expenses | 13000 | 1,067,905 |
| 3 | Repairs and Alterations..... | 06400 | 7,014 |
| 4 | Equipment..... | 07000 | 9,000 |
| 5 | Unclassified..... | 09900 | 10,616 |
| 6 | Other Assets..... | 69000 | <u>3,500</u> |
| 7 | Total..... | \$ | 1,104,035 |

190 - Division of Environmental Protection –

Solid Waste Reclamation and

Environmental Response Fund

(WV Code Chapter 22)

Fund 3332 FY 2019 Org 0313

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 793,967 |
| 2 | Current Expenses13000 | 3,604,737 |
| 3 | Repairs and Alterations.....06400 | 25,000 |
| 4 | Equipment.....07000 | 31,500 |
| 5 | Unclassified.....09900 | 22,900 |
| 6 | Buildings.....25800 | 500 |
| 7 | Other Assets.....69000 | <u>1,000</u> |
| 8 | Total..... | \$ 4,479,604 |

191 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2019 Org 0313

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 3,041,424 |
| 2 | Current Expenses13000 | 1,020,229 |
| 3 | Repairs and Alterations.....06400 | 30,930 |
| 4 | Equipment.....07000 | 23,356 |
| 5 | Unclassified.....09900 | 37,145 |
| 6 | Other Assets.....69000 | <u>25,554</u> |
| 7 | Total..... | \$ 4,178,638 |

192 - Division of Environmental Protection –

Air Pollution Control Fund

(WV Code Chapter 22)

Fund 3336 FY 2019 Org 0313

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 5,643,421 |
| 2 | Current Expenses13000 | 1,489,467 |
| 3 | Repairs and Alterations.....06400 | 84,045 |
| 4 | Equipment.....07000 | 103,601 |
| 5 | Unclassified.....09900 | 70,572 |
| 6 | Other Assets.....69000 | <u>52,951</u> |
| 7 | Total..... | \$ 7,444,057 |

193 - Division of Environmental Protection –

Environmental Laboratory

Certification Fund

(WV Code Chapter 22)

Fund 3340 FY 2019 Org 0313

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 311,044 |
| 2 | Current Expenses13000 | 208,188 |
| 3 | Repairs and Alterations.....06400 | 1,000 |
| 4 | Equipment.....07000 | 1,000 |
| 5 | Unclassified.....09900 | 1,120 |
| 6 | Other Assets.....69000 | <u>177,000</u> |
| 7 | Total..... | \$ 699,352 |

194 - Division of Environmental Protection –

Stream Restoration Fund

(WV Code Chapter 22)

Fund 3349 FY 2019 Org 0313

| | | | | |
|---|------------------------|-------|----|-----------|
| 1 | Current Expenses | 13000 | \$ | 9,298,205 |
|---|------------------------|-------|----|-----------|

*195 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2019 Org 0313

| | | | | |
|---|------------------------|-------|----|--------|
| 1 | Current Expenses | 13000 | \$ | 60,000 |
|---|------------------------|-------|----|--------|

*196 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2019 Org 0313

| | | | | |
|---|--|-------|----|---------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 646,395 |
|---|--|-------|----|---------|

| | | | | |
|---|------------------------|-------|--|-----------|
| 2 | Current Expenses | 13000 | | 2,735,112 |
|---|------------------------|-------|--|-----------|

| | | | | |
|---|-------------------------------|-------|--|-----|
| 3 | Repairs and Alterations | 06400 | | 800 |
|---|-------------------------------|-------|--|-----|

| | | | | |
|---|-----------------|-------|--|-----|
| 4 | Equipment | 07000 | | 500 |
|---|-----------------|-------|--|-----|

| | | | | |
|---|--------------------|-------|--|-----|
| 5 | Unclassified | 09900 | | 400 |
|---|--------------------|-------|--|-----|

| | | | | |
|---|--------------------|-------|--|--------------|
| 6 | Other Assets | 69000 | | <u>2,500</u> |
|---|--------------------|-------|--|--------------|

| | | | | |
|---|-------------|--|----|-----------|
| 7 | Total | | \$ | 3,385,707 |
|---|-------------|--|----|-----------|

*197 - Division of Environmental Protection –**Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2019 Org 0313

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,228,345 |
| 2 | Current Expenses13000 | 642,934 |
| 3 | Repairs and Alterations.....06400 | 30,112 |
| 4 | Equipment.....07000 | 23,500 |
| 5 | Unclassified.....09900 | 1,180 |
| 6 | Other Assets.....69000 | <u>11,520</u> |
| 7 | Total..... | \$ 1,937,591 |

198 - Oil and Gas Conservation Commission –

Special Oil and Gas Conservation Fund

(WV Code Chapter 22C)

Fund 3371 FY 2019 Org 0315

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 157,224 |
| 2 | Current Expenses13000 | 161,225 |
| 3 | Repairs and Alterations.....06400 | 1,000 |
| 4 | Equipment.....07000 | 9,481 |
| 5 | Other Assets.....69000 | <u>1,500</u> |
| 6 | Total..... | \$ 330,430 |

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

199 - Division of Health –

Ryan Brown Addiction Prevention and Recovery Fund

(WV Code Chapter 19)

Fund 5111 FY 2019 Org 0506

| | | | |
|---|---|-------|------------------|
| 1 | Current Expenses | 13000 | \$ 13,588,654 |
| | <i>200 - Division of Health –</i> | | |
| | <i>The Vital Statistics Account</i> | | |
| | (WV Code Chapter 16) | | |
| | Fund <u>5144</u> FY <u>2019</u> Org <u>0506</u> | | |
| 1 | Personal Services and Employee Benefits | 00100 | \$ 876,771 |
| 2 | Unclassified..... | 09900 | 15,500 |
| 3 | Current Expenses | 13000 | <u>1,257,788</u> |
| 4 | Total..... | | \$ 2,150,059 |

*201 - Division of Health –**Hospital Services Revenue Account**Special Fund**Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2019 Org 0506

| | | | |
|---|---|-------|-------------------|
| 1 | Institutional Facilities Operations | 33500 | \$ 35,555,221 |
| 2 | Medical Services Trust Fund – Transfer..... | 51200 | <u>27,800,000</u> |
| 3 | Total..... | | \$ 63,355,221 |

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2019, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human

Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

From the above appropriation to Institutional Facilities Operations, together with available funds from the Consolidated Medical Services Fund (fund 0525, appropriation 33500) on July 1, 2018, the sum of \$160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

202 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2019 Org 0506

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 862,657 |
| 2 | Unclassified.....09900 | | 18,114 |
| 3 | Current Expenses13000 | | <u>930,716</u> |
| 4 | Total..... | \$ | 1,811,487 |

203 - Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2019 Org 0506

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 605,950 |
| 2 | Unclassified.....09900 | | 7,113 |
| 3 | Current Expenses13000 | | <u>98,247</u> |
| 4 | Total..... | \$ | 711,310 |

204 - Division of Health –

Hepatitis B Vaccine

(WV Code Chapter 16)

Fund 5183 FY 2019 Org 0506

| | | | |
|---|-----------------------------|----|-------|
| 1 | Current Expenses13000 | \$ | 9,740 |
|---|-----------------------------|----|-------|

205 - Division of Health –

Lead Abatement Account

(WV Code Chapter 16)

Fund 5204 FY 2019 Org 0506

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 19,100 |
| 2 | Unclassified.....09900 | | 373 |
| 3 | Current Expenses13000 | | <u>17,875</u> |
| 4 | Total..... | \$ | 37,348 |

206 - Division of Health –

West Virginia Birth-to-Three Fund

(WV Code Chapter 16)

Fund 5214 FY 2019 Org 0506

| | | | |
|---|---|----|-------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 647,545 |
| 2 | Unclassified.....09900 | | 223,999 |
| 3 | Current Expenses13000 | | <u>28,053,549</u> |
| 4 | Total..... | \$ | 28,925,093 |

207 - Division of Health –

Tobacco Control Special Fund

(WV Code Chapter 16)

Fund 5218 FY 2019 Org 0506

| | | | |
|---|-----------------------------|----|-------|
| 1 | Current Expenses13000 | \$ | 7,579 |
|---|-----------------------------|----|-------|

208 - Division of Health –

Medical Cannabis Program Fund

(WV Code Chapter 16A)

Fund 5420 FY 2019 Org 0506

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 509,658 |
| 2 | Current Expenses13000 | | 1,151,040 |
| 3 | Other Assets69000 | | <u>895,000</u> |
| 4 | Total..... | \$ | 2,555,698 |

209 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2019 Org 0507

| | | | |
|---|---|----|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,310,821 |
|---|---|----|-----------|

| | | | |
|---|------------------------------|-------|--------------|
| 2 | Hospital Assistance..... | 02500 | 50,000 |
| 3 | Unclassified..... | 09900 | 100 |
| 4 | Current Expenses | 13000 | 754,645 |
| 5 | Repairs and Alterations..... | 06400 | 500 |
| 6 | Equipment..... | 07000 | <u>300</u> |
| 7 | Total..... | | \$ 2,116,366 |

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

210 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2019 Org 0507

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 805,113 |
| 2 | Current Expenses | 13000 | <u>774,967</u> |
| 3 | Total..... | | \$ 1,580,080 |

211 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2019 Org 0511

| | | | |
|---|---|-------|----------------|
| 1 | Medical Services..... | 18900 | \$ 198,568,451 |
| 2 | Medical Services Administrative Costs | 78900 | <u>231,549</u> |

3 Total..... \$ 198,800,000

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the West Virginia Medical Services Fund (fund 5084.)

212 - Division of Human Services –

Child Support Enforcement Fund

(WV Code Chapter 48A)

Fund 5094 FY 2019 Org 0511

| | | |
|---|---|-------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 24,809,509 |
| 2 | Unclassified.....09900 | 380,000 |
| 3 | Current Expenses13000 | <u>12,810,491</u> |
| 4 | Total..... | \$ 38,000,000 |

213 - Division of Human Services –

Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2019 Org 0511

| | | |
|---|--|----------------|
| 1 | Medical Services.....18900 | \$ 73,477,905 |
| 2 | Medical Services Administrative Costs78900 | <u>548,723</u> |
| 3 | Total..... | \$ 74,026,628 |

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment

of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

214 - Division of Human Services –

James “Tiger” Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2019 Org 0511

| | | | | |
|---|------------------------|-------|----|----------------|
| 1 | Unclassified..... | 09900 | \$ | 7,000 |
| 2 | Current Expenses | 13000 | | <u>693,000</u> |
| 3 | Total..... | | \$ | 700,000 |

215 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2019 Org 0511

| | | | | |
|---|------------------------|-------|----|---------|
| 1 | Current Expenses | 13000 | \$ | 900,000 |
|---|------------------------|-------|----|---------|

216 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2019 Org 0511

| | | | | |
|---|------------------------|-------|----|-----------|
| 1 | Current Expenses | 13000 | \$ | 1,000,000 |
|---|------------------------|-------|----|-----------|

217 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2019 Org 0511

1 Current Expenses13000 \$ 2,000,000

218 - Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2019 Org 0511

1 Personal Services and Employee Benefits00100 \$ 10,000

2 Current Expenses13000 25,000

3 Total..... \$ 35,000

**DEPARTMENT OF MILITARY AFFAIRS AND
PUBLIC SAFETY**

219 - Department of Military Affairs and Public Safety –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2019 Org 0601

1 Current Expenses13000 32,000

220 - State Armory Board –

General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2019 Org 0603

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,643,528 |
| 2 | Current Expenses13000 | 650,000 |
| 3 | Repairs and Alterations.....06400 | 385,652 |
| 4 | Equipment.....07000 | 250,000 |
| 5 | Buildings.....25800 | 770,820 |
| 6 | Other Assets.....69000 | 100,000 |
| 7 | Land73000 | <u>200,000</u> |
| 8 | Total..... | \$ 4,000,000 |

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

221 - Division of Homeland Security

And Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 15)

Fund 6208 FY 2019 Org 0606

| | | |
|---|-----------------------------|-----------|
| 1 | Current Expenses13000 | \$ 80,000 |
|---|-----------------------------|-----------|

222 - Division of Homeland Security and

Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2019 Org 0606

1 Current Expenses13000 \$ 2,000,000

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

223 - West Virginia Division of Corrections –

Parolee Supervision Fees

(WV Code Chapter 62)

Fund 6362 FY 2019 Org 0608

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,013,793 |
| 2 | Unclassified.....09900 | 9,804 |
| 3 | Current Expenses13000 | 758,480 |
| 4 | Equipment.....07000 | 30,000 |
| 5 | Other Assets.....69000 | <u>40,129</u> |
| 6 | Total..... | \$ 1,852,206 |

224 - West Virginia State Police –

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2019 Org 0612

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,786,923 |
| 2 | Current Expenses13000 | 1,488,211 |
| 3 | Repairs and Alterations.....06400 | 204,500 |
| 4 | Equipment.....07000 | 3,770,751 |
| 5 | Buildings.....25800 | 534,000 |

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|---|-------------------|-------|----------------|
| 6 | Other Assets..... | 69000 | 5,000 |
| 7 | BRIM Premium..... | 91300 | <u>302,432</u> |
| 8 | Total..... | \$ | 8,091,817 |

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

225 - West Virginia State Police –

Forensic Laboratory Fund

(WV Code Chapter 15)

Fund 6511 FY 2019 Org 0612

| | | | | |
|---|--|-------|----|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 100,000 |
| 2 | Current Expenses | 13000 | | 90,000 |
| 3 | Repairs and Alterations..... | 06400 | | 5,000 |
| 4 | Equipment..... | 07000 | | <u>45,000</u> |
| 5 | Total..... | | \$ | 240,000 |

226 - West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2019 Org 0612

| | | | | |
|---|------------------------|-------|----|----------------|
| 1 | Current Expenses | 13000 | \$ | 1,327,000 |
| 2 | Equipment..... | 07000 | | 3,491,895 |
| 3 | BRIM Premium..... | 91300 | | <u>154,452</u> |
| 4 | Total..... | | \$ | 4,973,347 |

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

227 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

Fund 6516 FY 2019 Org 0612

| | | | | |
|---|-------------------|-------|----|---------------|
| 1 | Buildings | 25800 | \$ | 1,022,778 |
| 2 | Land | 73000 | | 1,000 |
| 3 | BRIM Premium..... | 91300 | | <u>77,222</u> |
| 4 | Total..... | | \$ | 1,101,000 |

228 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2019 Org 0612

| | | | | |
|---|------------------------------|-------|----|--------------|
| 1 | Current Expenses | 13000 | \$ | 225,000 |
| 2 | Repairs and Alterations..... | 06400 | | 20,000 |
| 3 | Equipment..... | 07000 | | 250,000 |
| 4 | Buildings | 25800 | | 40,000 |
| 5 | Other Assets..... | 69000 | | 45,000 |
| 6 | BRIM Premium..... | 91300 | | <u>5,000</u> |
| 7 | Total..... | | \$ | 585,000 |

*229 - West Virginia State Police –**Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2019 Org 0612

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 236,881 |
| 2 | Current Expenses13000 | | 51,443 |
| 3 | Repairs and Alterations06400 | | 500 |
| 4 | Equipment07000 | | 300,500 |
| 5 | Other Assets69000 | | 300,500 |
| 6 | BRIM Premium91300 | | <u>18,524</u> |
| 7 | Total..... | \$ | 908,348 |

*230 - West Virginia State Police –**Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2019 Org 0612

| | | | |
|---|-----------------------------|----|-------|
| 1 | Current Expenses13000 | \$ | 8,300 |
|---|-----------------------------|----|-------|

*231 - West Virginia State Police –**State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2019 Org 0612

| | | | |
|---|------------------------------------|----|---------------|
| 1 | Current Expenses13000 | \$ | 160,000 |
| 2 | Repairs and Alterations06400 | | <u>40,000</u> |

3 Total..... \$ 200,000

232 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2019 Org 0615

1 Personal Services and Employee Benefits00100 \$ 1,971,039

2 Debt Service.....04000 9,000,000

3 Current Expenses13000 495,852

4 Repairs and Alterations.....06400 4,000

5 Equipment.....07000 1,743

6 Total..... \$ 11,472,634

233 - Fire Commission –

Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2019 Org 0619

1 Personal Services and Employee Benefits00100 \$ 3,233,683

2 Unclassified.....09900 3,800

3 Current Expenses13000 1,249,550

4 Repairs and Alterations.....06400 58,500

5 Equipment.....07000 140,800

6 Other Assets.....69000 2,000

7 BRIM Premium.....91300 60,000

8 Total..... \$ 4,748,333

*234 - Division of Justice and Community Services –**WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2019 Org 0620

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 152,000 |
| 2 | Unclassified.....09900 | | 750 |
| 3 | Current Expenses13000 | | 1,846,250 |
| 4 | Repairs and Alterations.....06400 | | <u>1,000</u> |
| 5 | Total..... | \$ | 2,000,000 |

*235 - Division of Justice and Community Services –**Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2019 Org 0620

| | | | |
|---|---|----|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 21,865 |
| 2 | Current Expenses13000 | | <u>1,478,135</u> |
| 3 | Total..... | \$ | 1,500,000 |

*236 - Division of Justice and Community Services –**Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2019 Org 0620

| | | | |
|---|-----------------------------|----|--------|
| 1 | Current Expenses13000 | \$ | 25,000 |
|---|-----------------------------|----|--------|

DEPARTMENT OF REVENUE*237 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2019 Org 0303

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,511,101 |
| 2 | Current Expenses13000 | 705,875 |
| 3 | Repairs and Alterations06400 | 100 |
| 4 | Equipment07000 | <u>12,000</u> |
| 5 | Total..... | \$ 3,229,076 |

*238 - Office of the Secretary –**State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2019 Org 0701

| | | |
|---|------------------------------|---------------|
| 1 | Directed Transfer70000 | \$ 20,000,000 |
|---|------------------------------|---------------|

The above appropriation for Directed Transfer shall be transferred to the Consolidated Public Retirement Board – West Virginia Public Employees Retirement System Employers Accumulation Fund (fund 2510).

*239 - Tax Division –**Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2019 Org 0702

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 23,459 |
| 2 | Current Expenses13000 | <u>7,717</u> |

| | | | |
|---|------------|----|--------|
| 3 | Total..... | \$ | 31,176 |
|---|------------|----|--------|

240 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2019 Org 0702

| | | | |
|---|---|----|---------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 655,203 |
| 2 | Unclassified.....09900 | | 9,500 |
| 3 | Current Expenses13000 | | 273,297 |
| 4 | Repairs and Alterations.....06400 | | 7,000 |
| 5 | Equipment.....07000 | | 5,000 |
| 6 | Total..... | \$ | 950,000 |

241 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2019 Org 0702

| | | | |
|---|---|----|---------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 254,162 |
| 2 | Current Expenses13000 | | 5,406 |
| 3 | Total..... | \$ | 259,568 |

242 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2019 Org 0702

| | | | | |
|---|------------------------|-------|----|---------------|
| 1 | Current Expenses | 13000 | \$ | 35,000 |
| 2 | Equipment | 07000 | | <u>15,000</u> |
| 3 | Total | | \$ | 50,000 |

243 - Tax Division –

Local Sales Tax and Excise Tax

Administration Fund

(WV Code Chapter 11)

Fund 7099 FY 2019 Org 0702

| | | | | |
|---|--|-------|----|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 1,508,968 |
| 2 | Unclassified..... | 09900 | | 10,000 |
| 3 | Current Expenses | 13000 | | 784,563 |
| 4 | Repairs and Alterations..... | 06400 | | 1,000 |
| 5 | Equipment..... | 07000 | | <u>5,000</u> |
| 6 | Total..... | | \$ | 2,309,531 |

244 - State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2019 Org 0703

| | | | | |
|---|------------------------------|-------|----|-----------|
| 1 | Public Employees Insurance | | | |
| 2 | Reserve Fund – Transfer..... | 90300 | \$ | 6,800,000 |

The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*245 - State Budget Office –**Public Employees Insurance Agency Financial Stability Fund*

(WV Code Chapter 11B)

Fund 7401 FY 2019 Org 0703

| | | | |
|---|------------------------------|-------|-------------------|
| 1 | Retiree Premium Offset | 80101 | \$ 5,000,000 |
| 2 | PEIA Reserve | 80102 | <u>10,000,000</u> |
| 3 | Total | | \$ 15,000,000 |

The above appropriation shall be transferred to special revenue funds to be utilized by the West Virginia Public Employees Insurance Agency for the purposes of permitting the PEIA Finance Board to offset \$5 million in retiree premium increases. Additionally, \$10 million will be put into a reserve fund to stabilize and preserve the future solvency of PEIA. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*246 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2019 Org 0704

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 721,117 |
| 2 | Current Expenses | 13000 | 1,357,201 |
| 3 | Repairs and Alterations | 06400 | 3,000 |
| 4 | Equipment | 07000 | 81,374 |
| 5 | Buildings | 25800 | 8,289 |
| 6 | Other Assets | 69000 | <u>11,426</u> |

| | | |
|---|------------|--------------|
| 7 | Total..... | \$ 2,182,407 |
|---|------------|--------------|

247 - Insurance Commissioner –

Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2019 Org 0704

| | | |
|---|---|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 552,228 |
| 2 | Current Expenses13000 | 202,152 |
| 3 | Repairs and Alterations.....06400 | 5,000 |
| 4 | Equipment.....07000 | 34,225 |
| 5 | Buildings.....25800 | 4,865 |
| 6 | Other Assets.....69000 | 19,460 |
| 7 | Total..... | \$ 817,930 |

248 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2019 Org 0704

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 23,039,727 |
| 2 | Current Expenses13000 | 8,797,758 |
| 3 | Repairs and Alterations.....06400 | 68,614 |
| 4 | Equipment.....07000 | 1,728,240 |
| 5 | Buildings.....25800 | 25,000 |
| 6 | Other Assets.....69000 | 340,661 |

7 Total..... \$ 34,000,000

249 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2019 Org 0704

1 Employee Benefits01000 \$ 50,000

2 Current Expenses 13000 250,500,000

3 Total..... \$ 250,550,000

250 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(WV Code Chapter 23)

Fund 7163 FY 2019 Org 0704

1 Current Expenses 13000 \$ 15,000,000

251 - Insurance Commissioner –

Self-Insured Employer Guaranty Risk Pool

(WV Code Chapter 23)

Fund 7164 FY 2019 Org 0704

1 Current Expenses 13000 \$ 9,000,000

252 - Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(WV Code Chapter 23)

Fund 7165 FY 2019 Org 0704

| | | | | |
|---|------------------------|-------|----|------------|
| 1 | Current Expenses | 13000 | \$ | 14,000,000 |
|---|------------------------|-------|----|------------|

253 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2019 Org 0706

| | | | | |
|---|--|-------|----|------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 247,523 |
| 2 | Current Expenses | 13000 | | 144,844 |
| 3 | Equipment | 07000 | | <u>100</u> |
| 4 | Total | | \$ | 392,467 |

254 - Racing Commission –

Relief Fund

(WV Code Chapter 19)

Fund 7300 FY 2019 Org 0707

| | | | | |
|---|--------------------------------|-------|----|--------|
| 1 | Medical Expenses – Total | 24500 | \$ | 57,000 |
|---|--------------------------------|-------|----|--------|

The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

255 - Racing Commission –

Administration and Promotion Account

(WV Code Chapter 19)

Fund 7304 FY 2019 Org 0707

| | | | | |
|---|--|-------|----|---------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 256,665 |
|---|--|-------|----|---------|

| | | | |
|---|------------------------|-------|--------------|
| 2 | Current Expenses | 13000 | 93,335 |
| 3 | Other Assets | 69000 | <u>5,000</u> |
| 4 | Total | \$ | 355,000 |

256 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7305 FY 2019 Org 0707

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,271,339 |
| 2 | Current Expenses | 13000 | 566,248 |
| 3 | Repairs and Alterations.....06400 | 7,000 | |
| 4 | Other Assets | 69000 | <u>50,000</u> |
| 5 | Total | \$ | 2,894,587 |

257 - Racing Commission –

Administration, Promotion, Education, Capital Improvement

and Greyhound Adoption Programs

to include Spaying and Neutering Account

(WV Code Chapter 19)

Fund 7307 FY 2019 Org 0707

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 864,474 |
| 2 | Current Expenses | 13000 | 214,406 |
| 3 | Other Assets | 69000 | <u>200,000</u> |
| 4 | Total | \$ | 1,278,880 |

*258 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2019 Org 0708

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 122,339 |
| 2 | Current Expenses | 13000 | 69,186 |
| 3 | Repairs and Alterations | 06400 | 7,263 |
| 4 | Equipment | 07000 | 10,000 |
| 5 | Buildings | 25800 | 100,000 |
| 6 | Other Assets | 69000 | <u>100</u> |
| 7 | Total | \$ | 308,888 |

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

259 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2019 Org 0708

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 5,413,237 |
| 2 | Current Expenses | 13000 | 2,890,577 |
| 3 | Repairs and Alterations | 06400 | 91,000 |
| 4 | Equipment | 07000 | 108,000 |
| 5 | Buildings | 25800 | 375,100 |
| 6 | Purchase of Supplies for Resale | 41900 | 72,500,000 |

| | | | |
|----|---|-------|----------------|
| 7 | Transfer Liquor Profits and Taxes | 42500 | 20,800,000 |
| 8 | Other Assets | 69000 | 125,100 |
| 9 | Land | 73000 | <u>100</u> |
| 10 | Total | | \$ 102,303,114 |

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses and equipment of administrative offices, warehouses and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

260 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2019 Org 0933

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 2,900 |
| 2 | Current Expenses | 13000 | <u>37,100</u> |
| 3 | Total | | \$ 40,000 |

DEPARTMENT OF TRANSPORTATION

261 - Division of Motor Vehicles –

Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2019 Org 0802

1 Current Expenses 13000 \$ 189,000

262 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2019 Org 0802

1 Personal Services and Employee Benefits 00100 \$ 3,362,799

2 Current Expenses 13000 4,362,975

3 Repairs and Alterations 06400 16,000

4 Equipment 07000 75,000

5 Other Assets 69000 10,000

6 BRIM Premium 91300 84,737

7 Total \$ 7,911,511

263 - Division of Highways –

A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2019 Org 0803

1 Current Expenses 13000 \$ 1,650,000

DEPARTMENT OF VETERANS' ASSISTANCE

264 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2019 Org 0613

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 94,210 |
| 2 | Current Expenses | 13000 | 2,255,997 |
| 3 | Repairs and Alterations.....06400 | | 10,000 |
| 4 | Equipment.....07000 | | 10,000 |
| 5 | Other Assets.....69000 | | <u>10,000</u> |
| 6 | Total..... | \$ | 2,380,207 |

265 - Department of Veterans' Assistance –

WV Veterans' Home –

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2019 Org 0618

| | | | | |
|---|-----------------------------------|-------|----|---------------|
| 1 | Current Expenses | 13000 | \$ | 700,000 |
| 2 | Repairs and Alterations.....06400 | | | <u>50,000</u> |
| 3 | Total..... | | \$ | 750,000 |

BUREAU OF SENIOR SERVICES

266 - Bureau of Senior Services –

Community Based Service Fund

(WV Code Chapter 22)

Fund 5409 FY 2019 Org 0508

| | | | |
|---|---|-------|-------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 151,290 |
| 2 | Current Expenses | 13000 | <u>10,348,710</u> |
| 3 | Total..... | \$ | 10,500,000 |

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

HIGHER EDUCATION POLICY COMMISSION

267 - Higher Education Policy Commission –

System –

Tuition Fee Capital Improvement Fund

(Capital Improvement and Bond Retirement Fund)

Control Account

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2019 Org 0442

| | | | |
|---|---|-------|----------------|
| 1 | Debt Service..... | 04000 | \$ 27,713,123 |
| 2 | General Capital Expenditures | 30600 | 5,000,000 |
| 3 | Facilities Planning and Administration..... | 38600 | <u>421,082</u> |
| 4 | Total..... | | \$ 33,134,205 |

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

268 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2019 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

269 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2019 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

270 - West Virginia University –

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2019 Org 0463

1 Personal Services and Employee Benefits00100 \$ 10,274,340

| | | | |
|---|------------------------------|-------|---------------|
| 2 | Current Expenses | 13000 | 4,524,300 |
| 3 | Repairs and Alterations..... | 06400 | 425,000 |
| 4 | Equipment | 07000 | 512,000 |
| 5 | Buildings | 25800 | 150,000 |
| 6 | Other Assets | 69000 | <u>50,000</u> |
| 7 | Total..... | | \$ 15,935,640 |

MISCELLANEOUS BOARDS AND COMMISSIONS

271 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2019 Org 0505

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 504,497 |
| 2 | Current Expenses | 13000 | <u>239,969</u> |
| 3 | Total..... | | \$ 744,466 |

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

272 - Hospital Finance Authority –

Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2019 Org 0509

| | | | |
|---|--|-------|-----------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 85,981 |
| 2 | Unclassified..... | 09900 | 1,450 |

| | | | |
|---|------------------------|-------|---------------|
| 3 | Current Expenses | 13000 | <u>57,740</u> |
| 4 | Total..... | \$ | 145,171 |

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

273 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2019 Org 0906

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 455,324 |
| 2 | Current Expenses | 13000 | <u>128,133</u> |
| 3 | Total..... | \$ | 583,457 |

274 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2019 Org 0907

| | | | |
|---|---|--------------|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,226,557 |
| 2 | Current Expenses | 13000 | 312,655 |
| 3 | Repairs and Alterations.....06400 | | 3,000 |
| 4 | Equipment.....07000 | | 25,000 |
| 5 | Other Assets.....69000 | <u>4,500</u> | |
| 6 | Total..... | \$ | 1,571,712 |

275 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2019 Org 0926

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 11,807,314 |
| 2 | Unclassified.....09900 | 147,643 |
| 3 | Current Expenses13000 | 2,572,222 |
| 4 | Repairs and Alterations.....06400 | 55,000 |
| 5 | Equipment.....07000 | 160,000 |
| 6 | PSC Weight Enforcement.....34500 | 4,370,453 |
| 7 | Debt Payment/Capital Outlay52000 | 350,000 |
| 8 | BRIM Premium.....91300 | <u>172,216</u> |
| 9 | Total..... | \$ 19,634,848 |

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

276 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2019 Org 0926

| | | |
|---|---|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 284,198 |
| 2 | Unclassified.....09900 | 3,851 |

| | | | |
|---|------------------------------|-------|--------------|
| 3 | Current Expenses | 13000 | 93,115 |
| 4 | Repairs and Alterations..... | 06400 | <u>4,000</u> |
| 5 | Total..... | \$ | 385,164 |

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

277 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8625 FY 2019 Org 0926

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 2,243,526 |
| 2 | Unclassified..... | 09900 | 29,233 |
| 3 | Current Expenses | 13000 | 577,557 |
| 4 | Repairs and Alterations..... | 06400 | 23,000 |
| 5 | Equipment..... | 07000 | <u>50,000</u> |
| 6 | Total..... | \$ | 2,923,316 |

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

278 - Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2019 Org 0926

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 743,372 |
| 2 | Current Expenses | 13000 | 276,472 |
| 3 | Equipment | 07000 | 9,872 |
| 4 | BRIM Premium..... | 91300 | <u>4,660</u> |
| 5 | Total..... | \$ | 1,034,376 |

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

279 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2019 Org 0927

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 582,413 |
| 2 | Current Expenses | 13000 | 285,622 |
| 3 | Repairs and Alterations..... | 06400 | 5,000 |
| 4 | Equipment | 07000 | <u>10,000</u> |
| 5 | Total..... | \$ | 883,035 |

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

280 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2019 Org 0930

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 73,190 |
| 2 | Current Expenses | 13000 | <u>65,623</u> |
| 3 | Total..... | \$ | 138,813 |

281 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2019 Org 0935

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 82,803 |
| 2 | Current Expenses | 13000 | 50,387 |
| 3 | Repairs and Alterations..... | 06400 | <u>400</u> |
| 4 | Total..... | \$ | 133,590 |

282 - WV Board of Licensed Dietitians –

Dietitians Licensure Board Fund

(WV Code Chapter 30)

Fund 8680 FY 2019 Org 0936

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 15,950 |
| 2 | Current Expenses | 13000 | <u>17,050</u> |
| 3 | Total..... | \$ | 33,000 |

283 - Massage Therapy Licensure Board –

Massage Therapist Board Fund

(WV Code Chapter 30)

Fund 8671 FY 2019 Org 0938

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 104,418 |
| 2 | Current Expenses | 13000 | <u>42,648</u> |
| 3 | Total..... | \$ | 147,066 |

284 - Board of Medicine –

Medical Licensing Board Fund

(WV Code Chapter 30)

Fund 9070 FY 2019 Org 0945

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,187,752 |
| 2 | Current Expenses | 13000 | 988,789 |
| 3 | Repairs and Alterations..... | 06400 | <u>20,000</u> |
| 4 | Total..... | \$ | 2,196,541 |

285 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2019 Org 0947

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 6,713,066 |
| 2 | Unclassified..... | 09900 | 232,000 |
| 3 | Current Expenses | 13000 | 17,640,134 |
| 4 | Repairs and Alterations..... | 06400 | 300 |
| 5 | Equipment..... | 07000 | 213,000 |
| 6 | Buildings..... | 25800 | 2,000 |
| 7 | Other Assets..... | 69000 | <u>199,500</u> |

8 Total..... \$ 25,000,000

286 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2019 Org 0950

1 Personal Services and Employee Benefits00100 \$ 782,889

2 Unclassified.....09900 14,850

3 Current Expenses13000 650,714

4 BRIM Premium.....91300 36,547

5 Fees of Custodians, Fund Advisors

6 and Fund Managers.....93800 3,500,000

7 Total..... \$ 4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 – Other Funds

(Including claims against the state)..... \$1,483,565,891

Sec. 4. Appropriations from lottery net profits. — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, and Fund 3514 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

287 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2019 Org 0211

| | Appropriation | Lottery Funds |
|------------------------------|----------------------|----------------------|
| 1 Debt Service – Total | 31000 | \$ 10,000,000 |

288 - West Virginia Development Office –

West Virginia Tourism Office

(WV Code Chapter 5B)

Fund 3067 FY 2019 Org 0304

| | | |
|--|-------|------------------|
| 1 Tourism – Telemarketing Center | 46300 | \$ 82,080 |
| 2 Tourism – Advertising (R)..... | 61800 | 2,422,407 |
| 3 Tourism – Operations (R)..... | 66200 | <u>4,045,269</u> |
| 4 Total..... | | \$ 6,549,756 |

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800), and

Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

289 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2019 Org 0310

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,196,139 |
| 2 | Current Expenses | 13000 | 26,900 |
| 3 | Pricketts Fort State Park..... | 32400 | 106,560 |
| 4 | Non-Game Wildlife (R)..... | 52700 | 372,124 |
| 5 | State Parks and Recreation Advertising (R) | 61900 | <u>494,578</u> |
| 6 | Total..... | \$ | 3,196,301 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

290 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2019 Org 0402

| | | | | |
|---|-----------------------------|-------|----|-----------|
| 1 | FBI Checks..... | 37200 | \$ | 111,611 |
| 2 | Vocational Education | | | |
| 3 | Equipment Replacement..... | 39300 | | 800,000 |
| 4 | Assessment Program (R)..... | 39600 | | 2,969,690 |

| | | | |
|---|--|-------|-------------------|
| 5 | 21st Century Technology Infrastructure | | |
| 6 | Network Tools and Support (R) | 93300 | <u>14,295,591</u> |
| 7 | Total..... | | \$ 18,176,892 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

291 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2019 Org 0402

| | | | |
|---|----------------------------|-------|------------------|
| 1 | Debt Service – Total | 31000 | \$ 15,320,363 |
| 2 | Directed Transfer | 70000 | <u>2,679,637</u> |
| 3 | Total..... | | \$ 18,000,000 |

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

292 - Department of Education and the Arts –

Office of the Secretary –

Control Account –

Lottery Education Fund

(WV Code Chapter 5F)

Fund 3508 FY 2019 Org 0431

| | | | | |
|---|---|-------|----|----------------|
| 1 | Unclassified (R) | 09900 | \$ | 9,483 |
| 2 | Current Expenses | 13000 | | 110,617 |
| 3 | Commission for National and Community Service | 19300 | | |
| 4 | 357,084 | | | |
| 5 | Statewide STEM 21st Century Academy | 89700 | | 130,000 |
| 6 | Literacy Project (R)..... | 89900 | | <u>350,000</u> |
| 7 | Total..... | | \$ | 957,184 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 3508, appropriation 09900), Governor's Honors Academy (fund 3508, appropriation 47800), Arts Programs (fund 3508, appropriation 50000), and Literacy Project (fund 3508, appropriation 89900) at the close of fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

*293 - Division of Culture and History –**Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2019 Org 0432

| | | | | |
|---|---------------------------------------|-------|----|-----------|
| 1 | Huntington Symphony | 02700 | \$ | 59,058 |
| 2 | Preservation WV (R)..... | 09200 | | 491,921 |
| 3 | Fairs and Festivals (R) | 12200 | | 1,346,814 |
| 4 | Archeological Curation/Capital | | | |
| 5 | Improvements (R)..... | 24600 | | 32,079 |
| 6 | Historic Preservation Grants (R)..... | 31100 | | 368,428 |
| 7 | West Virginia Public Theater..... | 31200 | | 120,019 |

| | | | |
|----|--|-------|---------------|
| 8 | Greenbrier Valley Theater | 42300 | 99,543 |
| 9 | Theater Arts of West Virginia..... | 46400 | 90,000 |
| 10 | Marshall Artists Series | 51800 | 36,005 |
| 11 | Grants for Competitive Arts Program (R)..... | 62400 | 726,000 |
| 12 | West Virginia State Fair..... | 65700 | 31,241 |
| 13 | Save the Music | 68000 | 24,000 |
| 14 | Contemporary American Theater Festival.... | 81100 | 57,281 |
| 15 | Independence Hall | 81200 | 27,277 |
| 16 | Mountain State Forest Festival | 86400 | 38,187 |
| 17 | WV Symphony..... | 90700 | 59,058 |
| 18 | Wheeling Symphony..... | 90800 | 59,058 |
| 19 | Appalachian Children's Chorus..... | 91600 | <u>54,554</u> |
| 20 | Total..... | | \$ 3,720,523 |

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Aracoma Story (Logan) \$29,703, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General

Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$5,049, Hardy County Tour and Crafts Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Scottish Heritage Society/N. Central WV (Harrison) \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393, Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Tug Valley Arts Council (Mingo) \$2,970, Tug Valley Chamber of Commerce Coal House (Mingo) \$1,188, Tunnelton Historical Society (Preston) \$1,188, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8

Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Birch River Days (Nicholas) \$1,296, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apollo Theater-Summer Program (Berkeley) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansas Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Barbour County Fair \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Bass Festival (Pleasants) \$1,099, Battelle District Fair (Monongalia) \$2,970, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair \$5,940, Boone County Labor Day Celebration \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival \$1,485, Brooke County Fair \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Festival (Mineral) \$17,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burnsville Harvest Festival (Braxton) \$1,407, Cabell County Fair \$5,940, Calhoun County Wood Festival \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration in the Park (Wood) \$2,376, Celebration of America (Monongalia) \$3,564, Ceredo Freedom Festival (Wayne) \$700, Chapmanville Apple

Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival \$4,158, Clay District Fair (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Country Roads Festival (Fayette) \$1,188, Cowen Railroad Festival (Webster) \$2,079, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Elkins Randolph County 4th of July Car Show (Randolph) \$1,188, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Farmers' Day Parade (Wyoming) \$720, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flatwoods Days (Braxton) \$700, Flemington Day Fair and Festival (Taylor) \$2,079, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$4,456, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Frontier Fest/Canaan Valley (Taylor) \$2,970, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast

(Mingo) \$2,188, Gilbert Kiwanis Harvest Festival (Mingo) \$2,376, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show \$2,376, Grant County Arts Council \$1,188, Grape Stomping Wine Festival (Nicholas) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration \$11,881, Hampshire County Fair \$5,002, Hampshire Heritage Days (Hampshire) \$2,376, Hancock County Oldtime Fair \$2,970, Hardy County Commission - 4th of July \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) \$1,188, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield

McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewis County Fair Association \$2,079, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival \$4,752, Lincoln County Winterfest \$2,970, Lindsie Veterans' Day Parade \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show \$1,485, Marshall County Fair \$4,456, Mason County Fair \$2,970, Mason Dixon Festival (Monongalia) \$4,158, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County \$11,881, McDowell County Fair \$1,485, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer Bluestone Valley Fair (Mercer) \$1,188, Mercer County Fair \$1,188, Mercer County Heritage Festival \$3,474, Mid Ohio Valley Antique Engine Festival (Wood) \$1,782, Milton Christmas in the Park (Cabell) \$1,485, Milton 4th of July Celebration (Cabell) \$1,485, Mineral County Fair \$1,040, Mineral County Veterans Day Parade \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mountaineer Hot Air Balloon Festival (Monongalia) \$2,376, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade

(Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Newburg Volunteer Fireman's Field Day (Preston) \$684, Nicholas County Fair \$2,970, Nicholas County Potato Festival \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Wood) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Century City Fair (Barbour) \$1,250, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend \$1,188, Pendleton County Committee for Arts \$8,910, Pendleton County Fair \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council \$1,782, Randolph County Fair \$4,158, Randolph County Ramp and Rails \$1,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition \$2,970, Ritchie County Pioneer Days \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River

Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival \$684, Spirit of Grafton Celebration (Taylor) \$5,940, Springfield Peach Festival (Hampshire) \$738, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Storytelling Festival (Lewis) \$400, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair \$3,267, Terra Alta VFD 4th of July Celebration (Preston) \$684, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$8,910, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Matoaka Hog Roast (Mercer) \$684, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$14,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration \$10,692, Tucker County Fair \$2,821, Tucker County Health Fair \$1,188, Tunnelton Depot Days (Preston) \$684, Tunnelton Volunteer Fire Department Festival (Preston) \$684, Turkey Festival (Hardy) \$1,782, Tyler County Fair \$3,088, Tyler County 4th of July \$400, Tyler County OctoberFest \$720, Union Community Irish Festival (Barbour) \$648, Uniquely West Virginia Festival (Morgan) \$1,188, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Upshur County Youth Livestock Show \$1,440, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891,

Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair \$2,970, Wayne County Fall Festival \$2,970, Webster County Fair \$3,600, Webster County Wood Chopping Festival \$8,910, Webster Wild Water Weekend \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Poultry Festival (Hardy) \$2,970, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel County Town and Country Days \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wileyville Homecoming (Wetzel) \$2,376, Wine Festival and Mountain Music Event (Harrison) \$2,970, Winter Festival of the Waters (Berkeley) \$2,970, Wirt County Fair \$1,485, Wirt County Pioneer Days \$1,188, Wyoming County Civil War Days \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534,

appropriation 86500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and the Cultural Grant Program allocations.

294 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2019 Org 0433

| | | | | |
|---|----------------------------------|-------|----|----------------|
| 1 | Books and Films | 17900 | \$ | 360,784 |
| 2 | Services to Libraries | 18000 | | 550,000 |
| 3 | Grants to Public Libraries | 18200 | | 9,439,571 |
| 4 | Digital Resources | 30900 | | 219,992 |
| 5 | Infomine Network..... | 88400 | | <u>884,109</u> |
| 6 | Total..... | | \$ | 11,454,456 |

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

295 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

| | | | | |
|---|---|-------|----|---------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ | 198,745 |
| 2 | Current Expenses | 13000 | | 332,284 |

| | | | |
|----|--|-------|------------------|
| 3 | Repairs and Alterations..... | 06400 | 1,000 |
| 4 | Local Programs Service Delivery Costs | 20000 | 2,435,250 |
| 5 | Silver Haired Legislature | 20200 | 18,500 |
| 6 | Transfer to Division of Human Services | | |
| 7 | for Health Care and Title XIX | | |
| 8 | Waiver for Senior Citizens | 53900 | 4,615,503 |
| 9 | Roger Tompkins Alzheimer's Respite Care . | 64300 | 2,298,312 |
| 10 | WV Alzheimer's Hotline | 72400 | 45,000 |
| 11 | Regional Aged and Disabled Resource Center | 76700 | 425,000 |
| 12 | Senior Services Medicaid Transfer | 87100 | 14,502,312 |
| 13 | Legislative Initiatives for the Elderly..... | 90400 | 9,671,239 |
| 14 | Long Term Care Ombudsman..... | 90500 | 297,226 |
| 15 | BRIM Premium..... | 91300 | 7,718 |
| 16 | In-Home Services and | | |
| 17 | Nutrition for Senior Citizens | 91700 | <u>4,320,941</u> |
| 18 | Total..... | | \$ 39,169,030 |

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

*296 - Higher Education Policy Commission –**Lottery Education –**Higher Education Policy Commission –**Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2019 Org 0441

| | | | |
|----|--|-------|----------------|
| 1 | RHI Program and Site Support (R)..... | 03600 | \$ 1,912,491 |
| 2 | RHI Program and Site Support – | | |
| 3 | RHEP Program Administration | 03700 | 146,653 |
| 4 | RHI Program and Site Support – Grad Med | | |
| 5 | Ed and Fiscal Oversight (R) | 03800 | 87,777 |
| 6 | Minority Doctoral Fellowship (R) | 16600 | 129,604 |
| 7 | Health Sciences Scholarship (R)..... | 17600 | 222,417 |
| 8 | Vice Chancellor for Health Sciences – | | |
| 9 | Rural Health Residency Program (R) | 60100 | 62,725 |
| 10 | WV Engineering, Science, and | | |
| 11 | Technology Scholarship Program..... | 86800 | <u>452,831</u> |
| 12 | Total..... | | \$ 3,014,498 |

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (appropriation 86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

297 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2019 Org 0442

1 Debt Service – Total31000 \$ 5,000,000

Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

298 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2019 Org 0463

| | | | |
|---|---|-------|----------------|
| 1 | WVU Health Sciences – | | |
| 2 | RHI Program and Site Support (R)..... | 03500 | \$ 1,132,812 |
| 3 | MA Public Health Program and | | |
| 4 | Health Science Technology (R)..... | 62300 | 52,445 |
| 5 | Health Sciences Career | | |
| 6 | Opportunities Program (R) | 86900 | 325,138 |
| 7 | HSTA Program (R)..... | 87000 | 1,680,240 |
| 8 | Center for Excellence in Disabilities (R) | 96700 | <u>303,739</u> |

9 Total..... \$ 3,494,374

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

299 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2019 Org 0471

1 Marshall Medical School –
 2 RHI Program and Site Support (R).....03300 \$ 408,216
 3 Vice Chancellor for Health Sciences –
 4 Rural Health Residency Program (R).....60100 166,770
 5 Total..... \$ 574,986

1 Any unexpended balances remaining in the appropriations for
 2 Marshall Medical School – RHI Program and Site Support (fund
 3 4896, appropriation 03300) and Vice Chancellor for Health
 4 Sciences – Rural Health Residency Program (fund 4896,
 5 appropriation 60100) at the close of fiscal year 2018 are hereby
 6 reappropriated for expenditure during the fiscal year 2019.

7 Total TITLE II, Section 4 – Lottery Revenue..... \$123,308,000

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following

appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

300 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2019 Org 0705

| | Appro- piation | Excess Lottery Funds |
|---------------------------|---------------------------|-------------------------------------|
| 1 Directed Transfer | 70000 | \$ 10,000,000 |

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner’s request.

301 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2019 Org 0705

| | | |
|---|-------|---------------|
| 1 General Revenue Fund – Transfer | 70011 | \$ 65,000,000 |
|---|-------|---------------|

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

302 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2019 Org 0441

- 1 PROMISE Scholarship – Transfer.....80000 \$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

303 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2019 Org 0944

- 1 Debt Service – Total31000 \$ 19,000,000

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

304 - Department of Education –

School Building Authority

Fund 3514 FY 2019 Org 0402

- 1 Debt Service – Total31000 \$ 19,000,000

*305 - West Virginia Infrastructure Council –**West Virginia Infrastructure Transfer Fund*Fund 3390 FY 2019 Org 0316

1 Directed Transfer70000 \$ 46,000,000

The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

*306 - Higher Education Policy Commission –**Higher Education Improvement Fund*Fund 4297 FY 2019 Org 0441

1 Directed Transfer70000 \$ 15,000,000

The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate Concurrent Resolution No. 41.

*307 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2019 Org 0310

| | | | |
|---|-----------------------------------|-------|----------------|
| 1 | Current Expenses (R)..... | 13000 | \$ 2,438,300 |
| 2 | Repairs and Alterations (R) | 06400 | 2,161,200 |
| 3 | Equipment (R)..... | 07000 | 200,000 |
| 4 | Buildings (R)..... | 25800 | 100,000 |
| 5 | Other Assets (R)..... | 69000 | <u>100,500</u> |
| 6 | Total..... | | \$ 5,000,000 |

Any unexpended balances remaining in the above appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600),

Unclassified (fund 3277, appropriation 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

308 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2019 Org 0944

| | | | | |
|---|-------------------|-------|----|-----------|
| 1 | Debt Service..... | 04000 | \$ | 2,032,000 |
|---|-------------------|-------|----|-----------|

309 - Racing Commission –

Fund 7308 FY 2019 Org 0707

| | | | | |
|---|--|-------|----|-----------|
| 1 | Special Breeders Compensation | | | |
| 2 | (WVC §29-22-18a, subsection (l)) | 21800 | \$ | 2,000,000 |

310 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2019 Org 0705

| | | | | |
|---|--------------------------------------|-------|----|-----------|
| 1 | Parking Garage Fund – Transfer | 70001 | \$ | 500,000 |
| 2 | 2004 Capitol Complex | | | |
| 3 | Parking Garage Fund – Transfer..... | 70002 | | 216,478 |
| 4 | Capitol Dome and | | | |
| 5 | Improvements Fund – Transfer | 70003 | | 1,796,256 |
| 6 | Capitol Renovation and | | | |
| 7 | Improvement Fund – Transfer | 70004 | | 2,381,252 |
| 8 | Development Office | | | |
| 9 | Promotion Fund – Transfer..... | 70005 | | 1,298,864 |

| | | | |
|----|--|-------|-------------------|
| 10 | Research Challenge Fund – Transfer | 70006 | 1,731,820 |
| 11 | Tourism Promotion Fund – Transfer | 70007 | 4,808,142 |
| 12 | Cultural Facilities and Capitol Resources Matching | | |
| 13 | Grant Program Fund – Transfer | 70008 | 1,250,535 |
| 14 | State Debt Reduction Fund – Transfer | 70010 | 20,000,000 |
| 15 | General Revenue Fund – Transfer | 70011 | 1,167,799 |
| 16 | West Virginia Racing Commission Racetrack | | |
| 17 | Video Lottery Account | 70012 | 3,463,637 |
| 18 | Historic Resort Hotel Fund | 70013 | 24,010 |
| 19 | Licensed Racetrack Regular Purse Fund | 70014 | <u>11,383,247</u> |
| 20 | Total | | \$ 50,022,040 |

311 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2019 Org 0100

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

312 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2019 Org 0307

Any unexpended balances remaining in the appropriations for Unclassified – Total (fund 3170, appropriation 09600), Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300), and Connectivity Research and Development – Lottery Surplus (fund 3170, appropriation 92300)

at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

313 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 4932 FY 2019 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

314 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2019 Org 0511

1 Medical Services..... 18900 \$ 28,202,960

315 - Division of Corrections –

Correctional Units

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2019 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Total TITLE II, Section 5 – Excess Lottery Funds \$ 290,257,000

Sec. 6. Appropriations of federal funds. — In accordance with Article 11, Chapter 4 of the Code from federal funds there are

hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2019.

LEGISLATIVE

316 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2019 Org 2300

| | Appropriation | Federal Funds |
|---|----------------------|----------------------|
| 1 Economic Loss Claim Payment Fund..... | 33400 | \$ 2,360,125 |

JUDICIAL

317 - Supreme Court

Fund 8867 FY 2019 Org 2400

| | | |
|--|-------|------------------|
| 1 Personal Services and Employee Benefits | 00100 | \$ 2,008,000 |
| 2 Current Expenses | 13000 | <u>1,992,000</u> |
| 3 Total..... | | \$ 4,000,000 |

EXECUTIVE

318 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2019 Org 1400

| | | |
|--|-------|--------------|
| 1 Personal Services and Employee Benefits | 00100 | \$ 2,563,760 |
| 2 Unclassified..... | 09900 | 50,534 |
| 3 Current Expenses | 13000 | 3,828,661 |

| | | |
|---|-----------------------------------|---------------|
| 4 | Repairs and Alterations.....06400 | 650,000 |
| 5 | Equipment.....07000 | 910,500 |
| 6 | Buildings.....25800 | 1,000,000 |
| 7 | Other Assets.....69000 | <u>50,000</u> |
| 8 | Total..... | \$ 9,053,455 |

319 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2019 Org 1400

| | | |
|---|--|----------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 610,830 |
| 2 | Unclassified.....09900 | 8,755 |
| 3 | Current Expenses.....13000 | 136,012 |
| 4 | Repairs and Alterations.....06400 | 5,500 |
| 5 | Equipment.....07000 | <u>114,478</u> |
| 6 | Total..... | \$ 875,575 |

320 - Department of Agriculture –

State Conservation Committee

(WV Code Chapter 19)

Fund 8783 FY 2019 Org 1400

| | | |
|---|--|-------------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 97,250 |
| 2 | Current Expenses.....13000 | <u>15,599,974</u> |
| 3 | Total..... | \$ 15,697,224 |

*321 - Department of Agriculture –
Land Protection Authority*

Fund 8896 FY 2019 Org 1400

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 46,526 |
| 2 | Unclassified.....09900 | | 5,004 |
| 3 | Current Expenses13000 | | <u>448,920</u> |
| 4 | Total..... | \$ | 500,450 |

*322 - Secretary of State –
State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2019 Org 1600

| | | | |
|---|---|----|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 210,240 |
| 2 | Unclassified.....09900 | | 7,484 |
| 3 | Current Expenses13000 | | 415,727 |
| 4 | Repairs and Alterations.....06400 | | 15,000 |
| 5 | Other Assets.....69000 | | <u>100,000</u> |
| 6 | Total..... | \$ | 748,451 |

DEPARTMENT OF COMMERCE

323 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2019 Org 0305

| | | | |
|---|---|----|-----------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,578,347 |
|---|---|----|-----------|

| | | | |
|---|------------------------------|-------|------------------|
| 2 | Unclassified..... | 09900 | 51,050 |
| 3 | Current Expenses | 13000 | 5,232,560 |
| 4 | Repairs and Alterations..... | 06400 | 155,795 |
| 5 | Equipment..... | 07000 | 100,000 |
| 6 | Other Assets..... | 69000 | <u>1,808,300</u> |
| 7 | Total..... | | \$ 8,926,052 |

324 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2019 Org 0306

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 54,432 |
| 2 | Unclassified..... | 09900 | 2,803 |
| 3 | Current Expenses | 13000 | 195,639 |
| 4 | Repairs and Alterations..... | 06400 | 5,000 |
| 5 | Equipment..... | 07000 | 7,500 |
| 6 | Other Assets..... | 69000 | <u>15,000</u> |
| 7 | Total..... | | \$ 280,374 |

325 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2019 Org 0307

| | | | |
|---|---|-------|------------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 745,981 |
| 2 | Unclassified..... | 09900 | 50,000 |
| 3 | Current Expenses | 13000 | <u>4,504,019</u> |

4 Total..... \$ 5,300,000

326 - West Virginia Development Office –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2019 Org 0307

| | | | |
|---|---|----|-------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 497,289 |
| 2 | Repairs and Alterations06400 | | 250 |
| 3 | Equipment07000 | | 6,000 |
| 4 | Unclassified09900 | | 106,795 |
| 5 | Current Expenses13000 | | <u>10,069,166</u> |
| 6 | Total..... | \$ | 10,679,500 |

327 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2019 Org 0308

| | | | |
|---|---|----|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 384,072 |
| 2 | Unclassified09900 | | 5,572 |
| 3 | Current Expenses13000 | | 167,098 |
| 4 | Repairs and Alterations06400 | | <u>500</u> |
| 5 | Total..... | \$ | 557,242 |

328 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2019 Org 0310

| | | |
|---|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 7,912,218 |
| 2 | Unclassified.....09900 | 107,693 |
| 3 | Current Expenses13000 | 5,556,594 |
| 4 | Repairs and Alterations.....06400 | 289,400 |
| 5 | Equipment.....07000 | 1,815,182 |
| 6 | Buildings.....25800 | 951,000 |
| 7 | Other Assets.....69000 | 6,951,000 |
| 8 | Land73000 | <u>6,001,000</u> |
| 9 | Total..... | \$ 29,584,087 |

329 - Division of Miners' Health,

Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2019 Org 0314

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 613,177 |
| 2 | Current Expenses13000 | <u>150,000</u> |
| 3 | Total..... | \$ 763,177 |

330 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2019 Org 0323

| | | |
|---|--------------------------------------|-----------|
| 1 | Unclassified.....09900 | \$ 5,127 |
| 2 | Current Expenses13000 | 507,530 |
| 3 | Reed Act 2002 – | |
| 4 | Unemployment Compensation62200 | 2,850,000 |

| | | | |
|---|---|-------|------------------|
| 5 | Reed Act 2002 – Employment Services | 63000 | <u>1,650,000</u> |
| 6 | Total..... | | \$ 5,012,657 |

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

331 - Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2019 Org 0328

| | | | |
|---|--|-------|------------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 411,574 |
| 2 | Unclassified..... | 09900 | 7,350 |
| 3 | Current Expenses | 13000 | <u>2,816,076</u> |
| 4 | Total..... | | \$ 3,235,000 |

DEPARTMENT OF EDUCATION

332 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2019 Org 0402

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 5,628,855 |
| 2 | Unclassified..... | 09900 | 2,000,000 |
| 3 | Current Expenses | 13000 | 212,367,820 |

| | | | |
|---|------------------------------|-------|----------------|
| 4 | Repairs and Alterations..... | 06400 | 10,000 |
| 5 | Equipment..... | 07000 | 10,000 |
| 6 | Other Assets..... | 69000 | <u>10,000</u> |
| 7 | Total..... | | \$ 220,026,675 |

333 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2019 Org 0402

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 1,812,648 |
| 2 | Unclassified..... | 09900 | 1,150,500 |
| 3 | Current Expenses | 13000 | 148,281,265 |
| 4 | Repairs and Alterations..... | 06400 | 20,000 |
| 5 | Equipment..... | 07000 | 100,000 |
| 6 | Other Assets..... | 69000 | <u>25,000</u> |
| 7 | Total..... | | \$ 151,389,413 |

334 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2019 Org 0402

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 1,819,972 |
| 2 | Unclassified..... | 09900 | 155,000 |
| 3 | Current Expenses | 13000 | 14,320,081 |

| | | |
|---|-----------------------------------|---------------|
| 4 | Repairs and Alterations.....06400 | 10,000 |
| 5 | Equipment.....07000 | 10,000 |
| 6 | Other Assets.....69000 | <u>10,000</u> |
| 7 | Total..... | \$ 16,325,053 |

335 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2019 Org 0402

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 3,344,940 |
| 2 | Unclassified.....09900 | 1,000,000 |
| 3 | Current Expenses13000 | 108,346,390 |
| 4 | Repairs and Alterations.....06400 | 10,000 |
| 5 | Equipment.....07000 | 10,000 |
| 6 | Other Assets.....69000 | <u>10,000</u> |
| 7 | Total..... | \$ 112,721,330 |

DEPARTMENT OF EDUCATION AND THE ARTS

336 - Department of Education and the Arts –

Office of the Secretary

(WV Code Chapter 5F)

Fund 8841 FY 2019 Org 0431

| | | |
|---|---|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 416,675 |
| 2 | Current Expenses13000 | 5,587,325 |

| | | |
|---|-----------------------------------|--------------|
| 3 | Repairs and Alterations.....06400 | <u>1,000</u> |
| 4 | Total..... | \$ 6,005,000 |

337 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2019 Org 0432

| | | |
|---|--|--------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 743,046 |
| 2 | Current Expenses.....13000 | 1,947,372 |
| 3 | Repairs and Alterations.....06400 | 1,000 |
| 4 | Equipment.....07000 | 1,000 |
| 5 | Buildings.....25800 | 1,000 |
| 6 | Other Assets.....69000 | 1,000 |
| 7 | Land.....73000 | <u>360</u> |
| 8 | Total..... | \$ 2,694,778 |

338 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2019 Org 0433

| | | |
|---|--|----------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 333,648 |
| 2 | Current Expenses.....13000 | 1,076,162 |
| 3 | Equipment.....07000 | <u>543,406</u> |
| 4 | Total..... | \$ 1,953,216 |

339 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2019 Org 0439

| | | | | |
|---|----------------|-------|----|---------|
| 1 | Equipment..... | 07000 | \$ | 200,000 |
|---|----------------|-------|----|---------|

340 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2019 Org 0932

| | | | | |
|---|--|-------|----|------------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 11,248,930 |
| 2 | Current Expenses | 13000 | | 39,440,940 |
| 3 | Repairs and Alterations..... | 06400 | | 350,400 |
| 4 | Equipment..... | 07000 | | <u>1,275,870</u> |
| 5 | Total..... | | \$ | 52,316,140 |

341 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2019 Org 0932

| | | | | |
|---|--|-------|----|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 13,730,634 |
| 2 | Current Expenses | 13000 | | 11,383,206 |
| 3 | Repairs and Alterations..... | 06400 | | 1,100 |
| 4 | Equipment..... | 07000 | | <u>83,350</u> |
| 5 | Total..... | | \$ | 25,198,290 |

DEPARTMENT OF ENVIRONMENTAL PROTECTION

342 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2019 Org 0313

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 30,084,598 |
| 2 | Current Expenses13000 | 169,448,731 |
| 3 | Repairs and Alterations.....06400 | 738,283 |
| 4 | Equipment.....07000 | 1,712,238 |
| 5 | Unclassified.....09900 | 2,062,978 |
| 6 | Other Assets.....69000 | 2,151,011 |
| 7 | Land73000 | <u>100,000</u> |
| 8 | Total..... | \$ 206,297,839 |

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*343 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2019 Org 0506

| | | |
|---|---|-------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 750,876 |
| 2 | Unclassified.....09900 | 73,307 |
| 3 | Current Expenses13000 | <u>17,330,086</u> |
| 4 | Total..... | \$ 18,154,269 |

*344 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2019 Org 0506

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 13,744,404 |
| 2 | Unclassified.....09900 | 947,948 |
| 3 | Current Expenses13000 | 79,110,551 |
| 4 | Equipment.....07000 | 456,972 |
| 5 | Buildings.....25800 | 155,000 |
| 6 | Other Assets.....69000 | <u>380,000</u> |
| 7 | Total..... | \$ 94,794,875 |

345 - Division of Health –

West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2019 Org 0506

| | | |
|---|--|---------------|
| 1 | West Virginia Drinking Water Treatment | |
| 2 | Revolving Fund – Transfer.....68900 | \$ 16,000,000 |

346 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2019 Org 0510

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 625,349 |
| 2 | Unclassified.....09900 | 5,482 |
| 3 | Current Expenses13000 | <u>140,389</u> |
| 4 | Total..... | \$ 771,220 |

347 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2019 Org 0511

| | | |
|---|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 69,213,619 |
| 2 | Unclassified.....09900 | 22,855,833 |
| 3 | Current Expenses13000 | 112,085,005 |
| 4 | Medical Services.....18900 | 3,404,265,405 |
| 5 | Medical Services Administrative Costs78900 | 132,045,119 |
| 6 | CHIP Administrative Costs.....85601 | 4,500,000 |
| 7 | CHIP Services.....85602 | 47,422,974 |
| 8 | Federal Economic Stimulus89100 | <u>5,000,000</u> |
| 9 | Total..... | \$ 3,797,387,955 |

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC
SAFETY**

348 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2019 Org 0601

| | | |
|---|-----------------------------------|--------------|
| 1 | Unclassified.....09900 | \$ 47,800 |
| 2 | Current Expenses13000 | 4,727,200 |
| 3 | Repairs and Alterations.....06400 | <u>5,000</u> |
| 4 | Total..... | \$ 4,780,000 |

349 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2019 Org 0603

| | | |
|---|------------------------|------------|
| 1 | Unclassified.....09900 | \$ 982,705 |
|---|------------------------|------------|

| | | | |
|---|-------------------------------------|-------|-------------------|
| 2 | Mountaineer ChalleNGe Academy | 70900 | 4,550,000 |
| 3 | Martinsburg Starbase | 74200 | 410,000 |
| 4 | Charleston Starbase..... | 74300 | 400,000 |
| 5 | Military Authority..... | 74800 | <u>91,927,900</u> |
| 6 | Total..... | | \$ 98,270,605 |

The Adjutant General shall have the authority to transfer between appropriations.

350 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2019 Org 0603

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 1,350,000 |
| 2 | Current Expenses | 13000 | 300,000 |
| 3 | Equipment..... | 07000 | <u>350,000</u> |
| 4 | Total..... | | \$ 2,000,000 |

351 - Division of Homeland Security and

Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2019 Org 0606

| | | | |
|---|--|-------|----------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 721,650 |
| 2 | Current Expenses | 13000 | 20,429,281 |
| 3 | Repairs and Alterations..... | 06400 | 5,000 |
| 4 | Equipment..... | 07000 | <u>100,000</u> |

5 Total..... \$ 21,255,931

352 - Division of Corrections

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2019 Org 0608

1 Unclassified.....09900 \$ 1,100

2 Current Expenses 13000 108,900

3 Total..... \$ 110,000

353 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2019 Org 0612

1 Personal Services and Employee Benefits00100 \$ 2,435,539

2 Current Expenses 13000 2,125,971

3 Repairs and Alterations.....06400 42,000

4 Equipment.....07000 2,502,285

5 Buildings.....25800 750,500

6 Other Assets.....69000 144,500

7 Land73000 500

8 Total..... \$ 8,001,295

354 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2019 Org 0619

1 Current Expenses 13000 \$ 80,000

355 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2019 Org 0620

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,058,570 |
| 2 | Unclassified.....09900 | 25,185 |
| 3 | Current Expenses13000 | 18,771,973 |
| 4 | Repairs and Alterations.....06400 | <u>1,750</u> |
| 5 | Total..... | \$ 19,857,478 |

DEPARTMENT OF REVENUE*356 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2019 Org 0704

| | | |
|---|-----------------------------|--------------|
| 1 | Current Expenses13000 | \$ 3,000,000 |
|---|-----------------------------|--------------|

DEPARTMENT OF TRANSPORTATION*357 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2019 Org 0802

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 501,394 |
| 2 | Current Expenses13000 | 10,498,106 |
| 3 | Repairs and Alterations.....06400 | <u>500</u> |
| 4 | Total..... | \$ 11,000,000 |

358 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2019 Org 0805

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 702,637 |
| 2 | Current Expenses | 13000 | 9,163,149 |
| 3 | Repairs and Alterations..... | 06400 | 2,500 |
| 4 | Equipment..... | 07000 | 2,801,714 |
| 5 | Buildings..... | 25800 | 650,000 |
| 6 | Other Assets..... | 69000 | <u>200,000</u> |
| 7 | Total..... | \$ | 13,520,000 |

DEPARTMENT OF VETERANS' ASSISTANCE*359 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2019 Org 0613

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,751,100 |
| 2 | Current Expenses | 13000 | 3,925,900 |
| 3 | Repairs and Alterations..... | 06400 | 50,000 |
| 4 | Equipment..... | 07000 | 200,000 |
| 5 | Buildings..... | 25800 | 600,000 |
| 6 | Other Assets..... | 69000 | 100,000 |
| 7 | Land | 73000 | <u>100,000</u> |
| 8 | Total..... | \$ | 7,727,000 |

*360 - Department of Veterans' Assistance –**Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2019 Org 0618

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 877,915 |
| 2 | Current Expenses | 13000 | 844,092 |
| 3 | Repairs and Alterations..... | 06400 | 220,000 |
| 4 | Equipment..... | 07000 | 198,000 |
| 5 | Buildings..... | 25800 | 296,000 |
| 6 | Other Assets..... | 69000 | 20,000 |
| 7 | Land | 73000 | <u>10,000</u> |
| 8 | Total..... | \$ | 2,466,007 |

BUREAU OF SENIOR SERVICES*361 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2019 Org 0508

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 721,393 |
| 2 | Current Expenses | 13000 | 13,811,853 |
| 3 | Repairs and Alterations..... | 06400 | <u>3,000</u> |
| 4 | Total..... | \$ | 14,536,246 |

MISCELLANEOUS BOARDS AND COMMISSIONS*362 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2019 Org 0926

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,286,913 |
| 2 | Current Expenses | 13000 | 368,953 |
| 3 | Repairs and Alterations.....06400 | | <u>40,000</u> |
| 4 | Total..... | \$ | 1,695,866 |

363 - Public Service Commission –

Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2019 Org 0926

| | | | |
|---|---|-------|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 596,600 |
| 2 | Current Expenses | 13000 | 124,628 |
| 3 | Equipment.....07000 | | 3,000 |
| 4 | Unclassified.....09900 | | <u>4,072</u> |
| 5 | Total..... | \$ | 728,300 |

364 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2019 Org 0941

| | | | |
|---|---|-------|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 159,235 |
| 2 | Current Expenses | 13000 | 631,365 |
| 3 | Repairs and Alterations.....06400 | | 5,000 |
| 4 | Equipment.....07000 | | 3,000 |
| 5 | Other Assets.....69000 | | <u>2,000</u> |
| 6 | Total..... | \$ | <u>800,600</u> |

7 Total TITLE II, Section 6 - Federal Funds \$5,029,638,750

Sec. 7. Appropriations from federal block grants. — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2019.

365 - West Virginia Development Office –

Community Development

Fund 8746 FY 2019 Org 0307

| | | |
|---|---|--------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 10,648,117 |
| 2 | Unclassified.....09900 | 2,375,000 |
| 3 | Current Expenses13000 | <u>224,476,883</u> |
| 4 | Total..... | \$237,500,000 |

366 - Department of Commerce

West Virginia Development Office –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2019 Org 0307

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 362,389 |
| 2 | Unclassified.....09900 | 125,000 |
| 3 | Current Expenses13000 | 12,002,111 |
| 4 | Repairs and Alterations.....06400 | 1,500 |
| 5 | Equipment.....07000 | <u>9,000</u> |
| 6 | Total..... | \$ 12,500,000 |

367 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2019 Org 0323

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,912,606 |
| 2 | Unclassified.....09900 | 23,023 |
| 3 | Current Expenses13000 | 39,263,511 |
| 4 | Repairs and Alterations.....06400 | 1,600 |
| 5 | Equipment.....07000 | 500 |
| 6 | Buildings.....25800 | <u>1,100</u> |
| 7 | Total..... | \$ 42,202,340 |

*368 - Division of Health –**Maternal and Child Health*Fund 8750 FY 2019 Org 0506

| | | |
|---|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,124,294 |
| 2 | Unclassified.....09900 | 110,017 |
| 3 | Current Expenses13000 | <u>8,767,420</u> |
| 4 | Total..... | \$ 11,001,731 |

*369 - Division of Health –**Preventive Health*Fund 8753 FY 2019 Org 0506

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 265,868 |
| 2 | Unclassified.....09900 | 22,457 |
| 3 | Current Expenses13000 | 1,895,366 |
| 4 | Equipment.....07000 | <u>165,642</u> |

5 Tota..... \$ 2,349,333

370 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2019 Org 0506

1 Personal Services and Employee Benefits00100 \$ 822,766

2 Unclassified.....09900 115,924

3 Current Expenses 13000 10,653,740

4 Total..... \$ 11,592,430

371 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2019 Org 0506

1 Personal Services and Employee Benefits00100 \$ 936,557

2 Unclassified.....09900 33,533

3 Current Expenses 13000 3,083,307

4 Total..... \$ 4,053,397

372 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2019 Org 0511

1 Personal Services and Employee Benefits00100 \$ 1,514,312

2 Unclassified.....09900 350,000

3 Current Expenses 13000 33,181,300

4 Total..... \$ 35,045,612

*373 - Division of Human Services –
Social Services*

Fund 8757 FY 2019 Org 0511

| | | |
|---|---|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 14,231,684 |
| 2 | Unclassified.....09900 | 171,982 |
| 3 | Current Expenses13000 | <u>2,870,508</u> |
| 4 | Total..... | \$ 17,274,174 |

*374 - Division of Human Services –
Temporary Assistance for Needy Families*

Fund 8816 FY 2019 Org 0511

| | | |
|---|---|--------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 18,371,875 |
| 2 | Unclassified.....09900 | 1,250,000 |
| 3 | Current Expenses13000 | <u>105,847,136</u> |
| 4 | Total..... | \$ 125,469,011 |

*375 - Division of Human Services –
Child Care and Development*

Fund 8817 FY 2019 Org 0511

| | | |
|---|---|------------------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 4,682,166 |
| 2 | Unclassified.....09900 | 350,000 |
| 3 | Current Expenses13000 | <u>31,999,456</u> |
| 4 | Total..... | \$ <u>37,031,622</u> |
| 5 | Total TITLE II, Section 7 – Federal Block Grants..... | \$ <u><u>536,019,650</u></u> |

Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2018, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$1,753,740 special revenue funds in the amount of \$22,442 and state road funds in the amount of \$408,811 for payment of claims against the state.

Sec. 9. Appropriations from general revenue surplus accrued. — The following item is hereby appropriated from the state fund, general revenue, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus as of July 31, 2018 from the fiscal year ending June 30, 2018, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

376 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2019 Org 0806

1 Port Authority – Surplus44399 \$ 4,870,000

The above appropriation to Port Authority - Surplus (fund 0581, appropriation 44399) shall serve as reimbursement for expenses incurred by the State Road Fund related construction and operation of the Heartland Intermodal Gateway in Wayne County.

Total TITLE II, Section 9 – General Revenue
 Surplus Accrued \$ 4,870,000

Sec. 10. Appropriations from lottery net profits surplus accrued. — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2018.

In the event that surplus revenues available from the fiscal year ending June 30, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

377 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

- 1 Senior Services Medicaid Transfer –
- 2 Lottery Surplus68199 \$ 6,000,000
- 3 Total TITLE II, Section 10 – Surplus Accrued \$ 6,000,000

Sec. 11. Appropriations from state excess lottery revenue surplus accrued. — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2018.

In the event that surplus revenues available from the fiscal year ending June 30, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

378 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2019 Org 0511

| | | | | |
|---|--|-------|----|-----------|
| 1 | Medical Services – Lottery Surplus | 68100 | \$ | 8,000,000 |
| 2 | Total TITLE II, Section 11 – Surplus Accrued | | \$ | 8,000,000 |

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2019 appropriations made by general law from special revenues which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2: *Provided*, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended.

Sec. 13. State improvement fund appropriations. — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2019, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending

units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2019 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

Sec. 14. Specific funds and collection accounts. — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

Sec. 15. Appropriations for refunding erroneous payment. — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 16. Sinking fund deficiencies. — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund

requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

Sec. 17. Appropriations for local governments. — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

Sec. 18. Total appropriations. — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

Sec. 19. General school fund. — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

Sec. 1. Appropriations conditional. — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are

conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

The bill (Com. Sub. for S. B. 152), as amended, was then ordered to engrossment and third reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 635 (originating in the Committee on Finance)—A Bill to amend and reenact §5-5-4 of the Code of West Virginia, 1931, as amended, relating to a 2019 across-the-board salary adjustment for employees of the Department of Health and Human Resources.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (S. B. 635) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

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

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 2869) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

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

And has amended same.

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

Respectfully submitted,

Robert Karnes,
Vice Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2799) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

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

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

Respectfully submitted,

Robert Karnes,
Vice Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 3089) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

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

And has amended same.

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

Respectfully submitted,

Robert Karnes,
Vice Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4006) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

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

And has amended same.

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

Respectfully submitted,

Robert Karnes,
Vice Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4251) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

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

And has amended same.

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4350) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

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

And has amended same.

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4389) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4394, Relating to forest fires.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4394) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 4407, Relating to eligibility for alternative program teacher certificate.

And reports the same back without recommendation as to passage; but with the further recommendation that it be rereferred to the Committee on Education.

Respectfully submitted,

Robert Karnes,
Vice Chair.

At the request of Senator Karnes, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4407) contained in the

preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Karnes, and by unanimous consent, the bill was rereferred to the Committee on Education.

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

Your Committee on Education has had under consideration

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

And has amended same.

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

Respectfully submitted,

Robert Karnes,
Vice Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4428) contained in the preceding report from the Committee on Education was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

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

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4447) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

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

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

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4465) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

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

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

Respectfully submitted,

Craig Blair,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4628) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

House Concurrent Resolution 8, Funding for feasibility study of Coal-to-Chemicals Project.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Randy E. Smith,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolution (H. C. R. 8) contained in the preceding report from the Committee on Energy, Industry, and Mining was taken up for immediate consideration.

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.

The Senate proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 29, US Army SGT Benny Fleming 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.

Senate Concurrent Resolution 52, Deputy Sheriff John Janey Memorial Bridge.

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

House Concurrent Resolution 5, U. S. Army PFC Jessie Franklin Crow Memorial Bridge.

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

The following amendments to the resolution, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

On page one, in the fourth Whereas clause, after the word “Crow” by inserting a comma;

And,

On page one, in the fourth Whereas clause, by striking out the word “to” and inserting in lieu thereof a comma and the word “should”.

The question now being on the adoption of the resolution (H. C. R. 5), as amended, 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 House Bill 4016, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4016) passed with its title.

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

Eng. Com. Sub. for House Bill 4035, Creating a legislative coalition to study and report to the Legislature on palliative care.

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

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4035) passed.

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

Eng. Com. Sub. for House Bill 4035—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-54-1, §16-54-2, §16-54-3, §16-54-4, §16-54-5, §16-54-6, and §16-54-7, all relating to palliative care; creating a state advisory coalition to improve palliative care in West Virginia; providing definitions; designating members of the coalition; providing for the powers and duties of the coalition; establishing that certain and other state agencies shall cooperate with the coalition; and establishing a termination date for the coalition.

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

Eng. Com. Sub. for House Bill 4042, Redefining school zone to facilitate placement of school zone signs.

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

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4042) passed with its title.

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

Eng. House Bill 4183, Relating generally to standardized testing requirements for nonpublic schools.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4183) passed.

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

Eng. House Bill 4183—A Bill to amend and reenact §18-28-3 of the Code of West Virginia, 1931, as amended, relating generally to testing requirements for nonpublic schools; requiring a nationally normed standardized achievement test be administered

at the same grade levels and in the same subject areas as required in the public schools; requiring test to be published or normed within the last ten years; requiring the student participation rate on the standardized achievement test be the same as that required in the public schools; removing exemption for nonpublic schools that exclusively teach special education students or students with learning disabilities from provisions pertaining to accountability for the school's composite test results falling below the 40th percentile; requiring for those schools assessment to be made of students at the same grade levels and in the same subject areas as required in the public schools; allowing testing in additional subject areas or grade levels at sole discretion of school; and conforming provisions pertaining to accountability for a school's composite test results falling below the 40th percentile.

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

Eng. Com. Sub. for House Bill 4275, Relating to the law-enforcement authority of the director and officers of the division of protective services.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4275) passed with its title.

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

Eng. Com. Sub. for House Bill 4400, Relating to the West Virginia Physicians Mutual Insurance Company.

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

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

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4400) passed with its title.

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

Eng. Com. Sub. for House Bill 4546, Relating to where an application for a marriage license may be made.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4546 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4546) passed with its title.

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

The Senate proceeded to the ninth order of business.

Senate Bill 633, Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund.

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

Senate Bill 634, Adding, increasing, and decreasing appropriations from General Revenue to DHHR.

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

Eng. Com. Sub. for House Bill 2028, Relating to the venue for suits and other actions against the state.

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

Eng. Com. Sub. for House Bill 4214, Increasing penalties for unlawfully possessing or digging ginseng.

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

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

On page eight, section thirty-five, line eight, after “\$500” by inserting the words “nor more than \$1000, and, for each subsequent offense, shall be fined not less than \$1000”.

The bill (Eng. Com. Sub. for H. B. 4214), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4276, Allowing magistrates to grant work release privileges.

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

Eng. Com. Sub. for House Bill 4336, Updating the schedule of controlled substances.

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

Eng. House Bill 4376, Expiring funds to the balance of the Department of Health and Human Resources.

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

Eng. House Bill 4379, Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation.

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

Eng. Com. Sub. for House Bill 4401, Relating to the registration of business.

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

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

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

CHAPTER 21. LABOR

ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.

§21-3-7. Regulation of operation of steam boilers.

(a) Any person owning or operating a steam boiler carrying more than fifteen pounds pressure per square inch (except boilers on railroad locomotives subject to inspection under federal laws; portable boilers used for agricultural purposes; boilers on automobiles; boilers of steam fire engines brought into the state for temporary use in times of emergency for the purpose of checking conflagrations; boilers used in private residences which are used solely for residential purposes; any sectional boilers; small portable boilers commonly used in the oil and gas industry about their wells and tool houses; and boilers under the jurisdiction of the United States) in this state shall first obtain a permit to operate a steam boiler from the Commissioner of Labor, or from an inspector working under his or her jurisdiction.

(b) Applications for permits to operate a steam boiler must be accompanied by a sworn statement made by the owner or operator of such boiler, setting forth the condition of the boiler and its appurtenances at which time, if the facts disclosed by such statement meet the safety requirements established under this article, the Commissioner of Labor shall issue a temporary permit, which shall be valid until such boiler has been inspected by a boiler inspector authorized by the state Commissioner of Labor; thereupon, if the boiler meets the safety requirements established under this article, the Commissioner of Labor shall issue an annual permit to operate such steam boiler: *Provided*, That boilers which are insured by an insurance company operating in this state and which are inspected by such insurance company's boiler inspector shall not be subject to inspection by the state Division of Labor,

during any twelve-month period during which an inspection is made by the insurance company's boiler inspector.

(c) The Commissioner of Labor or state boiler inspector shall have the authority to inspect steam boilers in this state. To carry out the provisions of this section, the Commissioner of Labor shall prescribe rules and regulations under which boilers may be constructed and operated, according to their class. The Commissioner of Labor may revoke any permit to operate a steam boiler if the rules prescribed by the Commissioner of Labor, or his or her authorized representative, are violated or if a condition shall prevail which is hazardous to the life and health of persons operating or employed at or around the boiler. Any person or corporation who shall operate a steam boiler for which a permit is necessary under the provisions of this section, without first obtaining such permit to operate a steam boiler, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500. Every day a steam boiler requiring a permit to operate is operated without the permit is a separate offense.

(d) The commissioner shall charge an annual fee to be established by legislative rule for the inspection of boilers by the division, for the processing of inspection reports from insurance companies, for the issuing of annual permits to operate boilers and for the commissioning of insurance company boiler inspectors. The commissioner shall propose rules for legislative approval, in accordance with ~~article three, chapter twenty-nine a of this code~~ §29A-3-1 et seq. of this code for the implementation and enforcement of this section. No fee may be charged for the inspection of boilers used on mobile equipment or vehicles used for occasional entertainment or display purposes.

(e) All fees paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the Steam Boiler Fund and expended for the implementation and enforcement of this section. Through June 30, 2019, Amounts ~~amounts~~ collected which are found from time to time to exceed funds needed for the purposes set forth in this section may be

utilized by the commissioner as needed to meet the division's funding obligations: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.

ARTICLE 3C. ELEVATOR SAFETY.

§21-3C-11. Disposition of fees; legislative rules.

(a) The division shall propose rules for legislative approval in accordance with ~~article three, chapter twenty nine a of this code~~ §29A-3-1 et seq. of this code, for the implementation and enforcement of the provisions of this article, which shall provide:

(1) Standards, qualifications and procedures for submitting applications, taking examinations and issuing and renewing licenses, certificates of competency and certificates of operation of the three licensure classifications set forth in ~~section ten a of this article~~ §21-3C-10a of this code;

(2) For the renewal of a license, even if the licensee is unemployed or not working in the industry: *Provided*, That to engage or offer to engage in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator or related conveyance covered by this article, the licensee shall be a contractor, or be employed by a contractor licensed pursuant to ~~section six, article eleven, chapter twenty one~~ §21-11-6 of the code;

(3) Qualifications and supervision requirements for elevator apprentices;

(4) Provisions for the granting of licenses without examination, to applicants who present satisfactory evidence of having the expertise required to perform work as defined in this article and who apply for licensure on or before July 1, 2010: *Provided*, That if a license issued under the authority of this subsection subsequently lapses, the applicant may, at the discretion of the commissioner, be subject to all licensure requirements, including the examination;

(5) Provisions for the granting of emergency licenses in the event of an emergency due to disaster, act of God or work stoppage when the number of persons in the state holding licenses issued pursuant to this article is insufficient to cope with the emergency;

(6) Provisions for the granting of temporary licenses in the event that there are no elevator mechanics available to engage in the work of an elevator mechanic as defined by this article;

(7) Continuing education requirements;

(8) Procedures for investigating complaints and revoking or suspending licenses, certificates of competency and certificates of operation, including appeal procedures;

(9) Fees for testing, issuance and renewal of licenses, certificates of competency and certificates of operation, and other costs necessary to administer the provisions of this article;

(10) Enforcement procedures; and

(11) Any other rules necessary to effectuate the purposes of this article.

(b) The rules proposed for promulgation pursuant to subsection (a) of this section shall establish the amount of any fee authorized pursuant to the provisions of this article: *Provided*, That in no event may the fees established for the issuance of certificates of operation exceed \$90.

(c) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury known as the Elevator Safety Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(d) The division may enter into agreements with counties and municipalities whereby such counties and municipalities be permitted to retain the inspection fees collected to support the enforcement activities at the local level.

(e) The commissioner or his or her authorized representatives may consult with engineering authorities and organizations concerned with standard safety codes, rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation and the qualifications which are adequate, reasonable and necessary for the elevator mechanic and inspector.

ARTICLE 3D. CRANE OPERATOR CERTIFICATION ACT.

§21-3D-8. Crane Operator Certification Fund; fees; disposition of funds.

(a) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account known as the Crane Operator Certification Fund in the State Treasury and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts ~~amounts~~ collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(b) The commissioner may set reasonable application fees for the issuance or renewal of certificates and other services associated with crane operator certification.

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-5c. License required for psychophysiological detection of deception examiners; qualifications; promulgation of rules governing administration of psychophysiological detection of deception examinations.

(a) No person, firm or corporation shall administer a psychophysiological detection of deception examination, lie

detector or other similar examination utilizing mechanical or electronic measures of physiological reactions to evaluate truthfulness without holding a current valid license to do so as issued by the Commissioner of Labor. No examination shall be administered by a licensed corporation except by an officer or employee thereof who is also licensed.

(b) A person is qualified to receive a license as an examiner if he or she:

(1) Is at least twenty-one years of age;

(2) Is a citizen of the United States;

(3) Has not been convicted of a misdemeanor involving moral turpitude or a felony;

(4) Has not been released or discharged with other than honorable conditions from any of the armed services of the United States or that of any other nation;

(5) Has passed an examination conducted by the Commissioner of Labor or under his or her supervision to determine his or her competency to obtain a license to practice as an examiner;

(6) Has satisfactorily completed not less than six months of internship training; and

(7) Has met any other qualifications of education or training established by the Commissioner of Labor in his or her sole discretion which qualifications are to be at least as stringent as those recommended by the American Polygraph Association.

(c) The Commissioner of Labor may designate and administer any test he or she considers appropriate to those persons applying for a license to administer psychophysiological detection of deception, lie detector or similar examination. The test shall be designed to ensure that the applicant is thoroughly familiar with the code of ethics of the American Polygraph Association and has been trained in accordance with association rules. The test must also include a rigorous examination of the applicant's knowledge of and

familiarity with all aspects of operating psychophysiological detection of deception equipment and administering psychophysiological detection of deception examinations.

(d) The license to administer psychophysiological detection of deception, lie detector or similar examinations to any person shall be issued for a period of one year. It may be reissued from year to year. The licenses to be issued are:

(1) "Class I license" which authorizes an individual to administer psychophysiological detection of deception examinations for all purposes which are permissible under the provisions of this article and other applicable laws and rules.

(2) "Class II license" which authorizes an individual who is a full-time employee of a law-enforcement agency to administer psychophysiological detection of deception examinations to its employees or prospective employees only.

(e) The Commissioner of Labor shall charge an annual fee to be established by legislative rule. All fees paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the Psychophysiological Examiners Fund and expended for the implementation and enforcement of this section. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this section may be utilized by the commissioner as needed to meet the division's funding obligations. In addition to any other information required, an application for a license shall include the applicant's Social Security number.

(f) The Commissioner of Labor shall propose rules for legislative approval in accordance with ~~article three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code governing the administration of psychophysiological detection of deception, lie detector or similar examination to any person: *Provided*, That all applicable rules in effect on the effective date of ~~sections five a, five b, five c and five d of this article~~ §21-5-5a, §21-5-5b, §21-5-5c and §21-5-5d of this code will remain in effect until amended,

withdrawn, revoked, repealed or replaced. The legislative rules shall include:

(1) The type and amount of training or schooling necessary for a person before which he or she may be licensed to administer or interpret a psychophysiological detection of deception, lie detector or similar examination;

(2) Testing requirements including the designation of the test to be administered to persons applying for licensure;

(3) Standards of accuracy which shall be met by machines or other devices to be used in psychophysiological detection of deception, lie detector, or similar examination;

(4) The conditions under which a psychophysiological detection of deception, lie detector, or similar examination may be administered;

(5) Fees for licenses, renewals of licenses, and other services provided by the commissioner;

(6) Any other qualifications or requirements, including continuing education, established by the commissioner for the issuance or renewal of licenses; and

(7) Any other purpose to carry out the requirements of ~~sections five a, five b, five c and five d of this article~~ §21-5-5a, §21-5-5b, §21-5-5c and §21-5-5d of this code.

ARTICLE 9. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

§21-9-9. License required; fees; form of license; display of license; denial, suspension, or revocation.

(a) No manufacturer, dealer, distributor or contractor shall engage in business in this state without first having applied for and received a license pursuant to this section. The license shall authorize the holder to engage in the business permitted by the license. All license applications shall be accompanied by the

required fee and surety bond or other form of assurance or fee assessed in satisfaction of assurance as required by rule or regulation promulgated by the board.

(b) All licenses shall be granted or refused within thirty days after proper and complete application. All licenses shall expire on June 30 of each year, unless sooner revoked or suspended. Applications shall be deemed valid for a period of thirty days.

(c) The annual license fees shall be in the amounts prescribed from time to time by rules promulgated by the board but in no event less than the following amounts:

- (1) For manufacturers, \$300;
- (2) For dealers, \$100;
- (3) For distributors, \$100; and

(4) For contractors, \$50: *Provided*, That if a contractor has met the licensing requirements of this article and the West Virginia Contractor Licensing Act in ~~article eleven of this chapter~~ §21-11-1 et seq. of this code, has paid the annual license fee under ~~section eight of said article~~ §21-11-8 of this code and has furnished bond or other assurance or fee under ~~section ten of this article~~ §21-9-10 of this code, he or she shall not be required to pay the annual license fee set forth in this section.

(d) The board shall prescribe the form of license and each license shall have affixed thereon the seal of the state Division of Labor.

(e) Each licensee shall conspicuously display the license in its established place of business.

(f) Pursuant to such rules and regulations as may be promulgated by the board, the board may deny the issuance of a license or revoke or suspend any license.

(g) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special

revenue account in the State Treasury to be known as the State Manufactured Housing Administration Fund. Expenditures from the fund shall be for the administration and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

ARTICLE 10. AMUSEMENT RIDES AND AMUSEMENT ATTRACTIONS SAFETY ACT.

§21-10-4. Inspection and permit fees.

(a) The division shall charge inspection and permit fees. The annual permit fee is \$100 for each ride or attraction. The annual inspection fee, if an inspection is to be done by the division, is \$100 for each ride or attraction. The annual inspection fee, if an inspection is to be done by the division, is due at the time of application for the annual permit. The division shall waive the inspection fee for any ride or attraction whose owner provides proof of nonprofit business status or for any ride or attraction whose owner provides proof that an inspection has been completed within the last year by a certified special inspector as provided in ~~section six of this article~~ §21-10-6 of this code.

(b) The division may charge additional inspection fees equal to the annual inspection fee for additional inspections required as the result of the condemnation of a device for safety standards violations and for inspections required as a result of accidents involving serious or fatal injury. If any owner or operator requires an inspection as the result of a violation of the permitting requirements of ~~section six of this article~~ §21-10-6 of this code, the division shall charge the owner or operator \$75 per hour in addition to the established inspection fee, including travel time.

(c) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account in the State Treasury known as the Amusement Rides and Amusement Attractions Safety Fund and expended for the implementation and enforcement of this article. Through June

30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(d) No inspection fee may be charged public agencies.

(e) The division shall issue, and the owner, operator, or both of the amusement rides and amusement attractions shall visibly display to the public, inspection stickers denoting and signifying that the inspection and permit fee authorized by this section has been paid or waived.

ARTICLE 11. WEST VIRGINIA CONTRACTOR LICENSING ACT.

§21-11-17. Recordkeeping; fees.

(a) The division shall keep a record of all actions taken and account for moneys received. All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account in the State Treasury to be known as the West Virginia Contractor Licensing Board Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(b) The division shall maintain at its principal office, open for public inspection during regular office hours, a complete indexed record of all applications, licenses issued, licenses renewed and all revocations, cancellations, and suspensions of licenses. Applications shall show the date of application, name, qualifications, place of business and place of residence of each applicant; and whether the application was approved or refused.

(c) (1) All investigations, complaints, reports, records, proceedings, and other information received by the commissioner and board and related to complaints made to the commissioner or board or investigations conducted by the commissioner or board

pursuant to this article, including the identity of the complainant or respondent, shall be confidential and shall not be knowingly and improperly disclosed by any member or former member of the board, the commissioner or staff, except as follows:

(A) Upon a finding that probable cause exists to believe that a respondent has violated the provisions of this article, the complaint and all reports, records, nonprivileged and nondeliberative materials introduced at any probable cause hearing held pursuant to the complaint are thereafter not confidential: *Provided*, That confidentiality of such information shall remain in full force and effect until the respondent has been served with a copy of the statement of charges.

(B) Any subsequent hearing held in the matter for the purpose of receiving evidence or the arguments of the parties or their representatives shall be open to the public and all reports, records, and nondeliberative materials introduced into evidence at such subsequent hearing, as well as the board's and commissioner's orders, are not confidential.

(C) The commissioner or board may release any information relating to an investigation at any time if the release has been agreed to in writing by the respondent.

(D) The complaint as well as the identity of the complainant shall be disclosed to a person named as respondent in any such complaint filed immediately upon such respondent's request.

(E) Where the commissioner or board is otherwise required by the provisions of this article to disclose such information or to proceed in such a manner that disclosure is necessary and required to fulfill such requirements.

(2) If, in a specific case, the commissioner or board finds that there is a reasonable likelihood that the dissemination of information or opinion in connection with a pending or imminent proceeding will interfere with a fair hearing or otherwise prejudice the due administration of justice, the commissioner or board shall order that all or a portion of the information communicated to the

commissioner or board to cause an investigation and all allegations of violations or misconduct contained in a complaint shall be confidential, and the person providing such information or filing a complaint shall be bound to confidentiality until further order of the board.

(d) If any person violates the provisions of subsection (c) of this section by knowingly and willfully disclosing any information made confidential by such section or by the commissioner or board, such person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000, or confined in jail not more than one month, or both fined and confined.

(e) The commissioner shall certify to the State Auditor and to the board a detailed statement of all moneys received and spent during the preceding fiscal year.

ARTICLE 14. SUPERVISION OF PLUMBING WORK.

§21-14-9. Disposition of fees.

All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in a special revenue account in the State Treasury to be known as the Plumbing Work Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

ARTICLE 15. ZIPLINE AND CANOPY TOUR RESPONSIBILITY ACT.

§21-15-7. Inspection and permit fees.

(a) The division shall charge inspection and permit fees. The annual permit fee is \$100 for each zipline or canopy tour.

(1) The annual inspection fee, if an inspection is to be done by the division, is \$100 for each zipline or canopy tour.

(2) The annual inspection fee, if an inspection is to be done by the division, is due at the time of application for the annual permit.

(3) The division shall waive the inspection fee for a zipline or canopy tour whose operator provides proof of nonprofit business status or for any zipline or canopy tour whose operator provides proof that an inspection has been completed within the last year by a certified special inspector as provided in ~~section nine of this article~~ §21-15-9 of this code.

(b) The division may charge additional inspection fees equal to the annual inspection fee for additional inspections required as the result of the condemnation of a device for safety standards violations and for inspections required as a result of accidents involving serious or fatal injury. If any operator requires an inspection as the result of a violation of the permitting requirements of ~~section nine of this article~~ §21-15-9 of this code, the division shall charge the operator \$75 per hour in addition to the established inspection fee, including travel time.

(c) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account in the State Treasury known as the Amusement Rides and Amusement Attractions Safety Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(d) No inspection fee may be charged public agencies.

ARTICLE 16. REGULATION OF HEATING, VENTILATING, AND COOLING WORK.

§21-16-10. Disposition of fees.

All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the HVAC Fund and expended for the implementation and

enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 1. WEIGHTS AND MEASURES.

§47-1-8. Requirements for the registration of service persons and service agencies for commercial weighing and measuring devices.

(a) The uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices as adopted by The National Conference of Weights and Measures and published in the National Institute of Standards and Technology Handbook 130, Uniform Laws and Regulations and supplements thereto or revisions thereof, shall apply to the registration of service persons and service agencies in the state, except insofar as modified or rejected by legislative rule.

(b) Beginning January 1, 2018, the commissioner shall charge an annual registration fee for service persons and service agencies to be established by legislative rule: Provided, That upon the effective date of the amendments to this section adopted in the 2018 Regular Session of the Legislature, the division may not charge an annual registration fee. ~~The commissioner may file an emergency rule prior to January 1, 2018, to implement and administer the amendments made to this section during the 2017 regular session. The commissioner may also propose rules for legislative approval, in accordance with article three, chapter twenty nine a of this code for the implementation and enforcement of this section.~~

(c) All fees paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in the Weights and Measures Fund for use by the commissioner for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to

time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

§47-1-20. State measurement laboratory.

(a) The commissioner shall operate and maintain a state measurement laboratory certified and approved by the National Institute of Standards and Technology. The laboratory shall be used to both house and maintain the state primary standards and secondary standards as traceable to the national standards and to test or calibrate any secondary or working standards which are submitted for test as required by this article.

(b) The commissioner shall promulgate rules, pursuant to ~~chapter twenty-nine~~ a §29A-1-1 et seq. of this code to assess fees for weights and measures, laboratory calibration, and testing. All fees paid pursuant to this section shall be paid to the Commissioner of Labor and deposited into an appropriated special revenue account in the State Treasury to be known as the Weights and Measures Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(c) The commissioner shall provide such personnel as required to operate the laboratory in a manner which is consistent with the needs of this article. Personnel shall be trained and certified to perform all such calibrations and tests as required by the National Institute of Standards and Technology to maintain traceability of the state standards to national standards, and to properly maintain the laboratory facility as certified and traceable to the National Institute of Standards and Technology.

§47-1-21. Registration of business.

(a) On or before October 1, 1994, every commercial business in the state which, in the course of conducting business, utilizes weights, measures, and weighing and measuring devices covered by this article shall obtain a certificate of device registration for the

commercial devices covered by this article, from the division. After October 1, 1994, it shall be unlawful in the state to conduct business subject to the provisions of this article without having first obtained a certificate of device registration from the division. Application for a certificate of device registration shall be made on a form provided by the division.

(b) A certificate of device registration is valid for 12 months from the date of issue. The certificate of device registration shall be posted within the place of business.

(c) Application for the renewal of a certificate of device registration shall be made on a form provided by the division at least 30 days prior to the renewal due date. The commissioner may deny the renewal of device registration for cause where the cause is the result of the conviction of the applicant, in a court of competent jurisdiction, for a violation of this article.

(d) Beginning January 1, 2018, the division shall charge an annual device registration fee, to be established by legislative rule; Provided, That upon the effective date of the amendments to this section adopted in the 2018 Regular Session of the Legislature, the division may not charge an annual device registration fee. The commissioner may file an emergency rule prior to January 1, 2018, to implement and administer the amendments made to this section during the 2017 regular session. The commissioner may also propose rules for legislative approval, in accordance with article three, chapter twenty nine a of this code for the implementation and enforcement of this section.

(e) All fees paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in the Weights and Measures Fund for use by the commissioner for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

§47-1-22. Civil penalties.

(a) No person may:

(1) Use or have in possession for use in commerce any incorrect weight or measure;

(2) Sell or offer for sale for use in commerce any incorrect weight or measure;

(3) Remove any tag, seal, or mark from any weight or measure, without specific authorization from the Weights and Measures Section; or

(4) Violate any provisions of this article or rules promulgated under it, not defined in ~~subsection (a), section twenty-three of this article~~ §47-1-23(a) of this code .

(b) Any person who violates subsection (a) of this section or any rule promulgated by the commissioner may be assessed a civil penalty by the commissioner, which penalty may not be more than \$1,000 for each violation. Each violation shall constitute a separate offense. In determining the amount of the penalty, the commissioner shall consider the person's history of previous violations, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation.

(c) All civil penalties paid pursuant to this section shall be paid to the Commissioner of Labor and deposited in the Weights and Measures Fund for use by the commissioner for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

(d) A civil penalty may be assessed by the commissioner only after the commissioner has given at least ten days' notice to the person. Notice shall be in writing, shall contain a short, plain

statement of the matter asserted and shall designate a time and place for a hearing where the person may show cause why the civil penalty should not be imposed. Notice of hearing shall be sent by certified mail. The person may, at the time designated for the hearing, produce evidence on his or her behalf and be represented by 4 counsel.

(e) Any person aggrieved by a decision of the commissioner has the right to a contested case hearing under ~~article five, chapter twenty-nine~~ ~~a of this code~~, §29A-5-1 et seq. of this code.

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

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

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

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

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

(d) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the Bedding and Upholstery Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligations.

Following discussion,

The question being on the adoption of the Finance committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4401), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4453, Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review.

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

Eng. House Bill 4529, Relating to oath by municipal official certifying list of delinquent business and occupation taxes.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4571, Relating to the final day of filing announcements of candidates for a political office.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4618, Relating to the authority of the Division of Protective Services.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-1. Suppression of riots and unlawful assemblages.

All members of the ~~Department of Public Safety~~ West Virginia State Police, the Division of Protective Services, all sheriffs within their respective counties and all mayors within their respective jurisdiction, may suppress riots, routs and unlawful assemblages. It shall be the duty of each of them to go among, or as near as may be with safety, to persons riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, such member of the ~~Department of Public Safety~~ West Virginia State Police, or of the Division of Protective Services, sheriff or mayor giving the command, and any other present, shall command the assistance of all persons present, and of all or any part of other law-enforcement personnel available to him or her, as need be, in arresting and securing those so assembled. If any person present, on being required to give his or her assistance, depart, or fail to obey, he or she shall be deemed a rioter.

§61-6-1a. Control of riots and unlawful assemblages.

Members of the ~~Department of Public Safety~~ West Virginia State Police, the Division of Protective Services, sheriffs and mayors, and those acting under their order, may, when engaged in suppressing a riot, rout or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful assemblage, and may take all actions which are necessary and reasonable under the emergency to restore law and order, and such actions may be, but are not limited to, the following:

(a) Prohibit the sale, offering for sale, dispensing, furnishing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to or from such areas.

(b) Prohibit the sale, offering for sale, dispensing, furnishing, or consumption of alcoholic beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation of alcoholic beverages or nonintoxicating beer in, to, or from such areas.

(c) Impose curfews, as required, to control movement of persons in, to, and from such areas.

(d) Enter a private dwelling or other building or other private place in such areas when in fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a dwelling or other building or place or when in search of firearms, other dangerous weapons, ammunition, dynamite, or other dangerous explosives when there is reason to believe that such items are stored in the said dwelling, building, or place and that they will be removed therefrom before a search warrant could be obtained.

No person shall willfully fail to obey a lawful order of any mayor, sheriff, deputy sheriff, municipal police officer, member of the ~~Department of Public Safety~~ West Virginia State Police, or the Division of Protective Services, or other officer, given pursuant to this section.

Any person who violates an order given pursuant to the authority of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500, or imprisoned in the county jail not more than six months, or both fined and imprisoned.

§61-6-3. Failure of member of ~~department of public safety~~ West Virginia State Police officer, officer of the Division of Protective Services, mayor, or sheriff to exercise powers at riots and unlawful assemblages; penalty.

If any member of the ~~Department of Public Safety~~ West Virginia State Police, the Division of Protective Services, sheriff, or mayor have notice of a riotous, tumultuous, or unlawful assemblage in his or her respective jurisdiction as provided in section one of this article, and fail to proceed immediately to the place of such assemblage, or as near as he or she may safely go, or fail to exercise his or her authority for suppressing it and arresting the offenders, he or she shall be fined not to exceed \$100.

§61-6-4. Summoning of persons to aid in suppressing riots and unlawful assemblages.

If any person engaged in such assemblage, being commanded, as hereinbefore provided, to disperse or to peaceably leave the scene of such assemblage, fail to do so without delay, any such member of the ~~Department of Public Safety~~ West Virginia State Police, the Division of Protective Services, sheriff or mayor may require the aid of a sufficient number of persons, in arms or otherwise, and proceed, in such manner as he or she may deem expedient, to disperse and suppress such assemblage, and arrest and secure those engaged in it.

§61-6-5. Death of person in suppression of riots and unlawful assemblages.

If, by any means taken under the authority of this article to disperse any such assemblage or arrest those engaged in it, any person present, as spectator or otherwise, be killed or wounded, and neither malice, nor premeditation be present, any member of the ~~Department of Public Safety~~ West Virginia State Police, the Division of Protective Services, sheriff, or mayor exercising such authority, and everyone acting under his or her order, shall be held guiltless.; ~~and if the member of the Department of Public Safety sheriff or mayor, or any person acting under the order of either of them, be killed or wounded in taking such means, or by the rioters, all persons engaged in such assemblage shall be deemed guilty of such killing or wounding.~~

The bill (Eng. Com. Sub. for H. B. 4618), as amended, was then ordered to third reading.

Eng. House Bill 4627, Relating to providing a limitation on the eminent domain authority of a municipal park board.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 21. BOARD OF PARK AND RECREATION COMMISSION.**§8-21-8. Purchase, lease or condemnation of real property.**

The board is hereby granted the power and authority to acquire in its name or in the name of the city by purchase, lease, or by exercise of the power of eminent domain, or otherwise, such land or lands as it shall determine to be necessary, appropriate, convenient or incidental to the establishment, construction, improvement, extension, development, maintenance or operation of a system of public parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and other public park and recreational facilities for the city, whether of a like or different nature: Provided, That any such acquisition by the board made by exercise of the power of eminent domain must be approved by a majority vote of the governing body of that municipality. Approval by the governing body must be granted as to each specific parcel or tract of land to be acquired by power of eminent domain.

The bill (Eng. H. B. 4627), as amended, was then ordered to 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:

Eng. Com. Sub. for House Bill 2008, Relating to the Dealer Recovery Program.

Eng. Com. Sub. for House Bill 4036, Increasing the maximum salaries of family case coordinators and secretary-clerks.

Eng. Com. Sub. for House Bill 4157, Eliminating the refundable exemption for road construction contractors.

Eng. Com. Sub. for House Bill 4166, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”.

Eng. Com. Sub. for House Bill 4431, Establishing the Mountaineer Trail Network Recreation Authority.

And,

Eng. Com. Sub. for House Bill 4558, Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office.

The Senate proceeded to the thirteenth order of business.

Senator Carmichael (Mr. President) announced the replacement of Senator Beach with Senator Woelfel on the committee of conference as to

Eng. Com. Sub. for House Bill 4186, Relating generally to guaranteed asset protection waivers.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 1:23 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:47 p.m. today and, without objection, returned to the third order of business.

Executive Communications

Senator Carmichael (Mr. President) laid before the Senate the following proclamation from His Excellency, the Governor, extending this current legislative session until and including the eleventh day of March, two thousand eighteen, which was received and read by the Clerk:

**STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston**

A P R O C L A M A T I O N

By the Governor

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January two thousand eighteen; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand eighteen regular session of the Legislature is scheduled to conclude on the tenth day of March, two thousand eighteen; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this seventh day of March, two thousand eighteen.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in

accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand eighteen regular session of the Legislature for an additional period not to exceed one day, through and including the eleventh day of March, two thousand eighteen; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, on this the seventh day of March, in the year of our Lord, Two Thousand Eighteen, and in the One Hundred Fifty-Fifth year of the State.

JIM JUSTICE
GOVERNOR

By the Governor

MAC WARNER
SECRETARY OF STATE

The Senate again proceeded to the fourth order of business.

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 2655, Defining and establishing the crime of cyberbullying.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2655) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 2982, Relating to allowing draw games winners to remain anonymous.

Eng. Com. Sub. for House Bill 4002, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020.

Eng. Com. Sub. for House Bill 4011, Requiring agencies, when submitting a new rule or changes, to also identify two existing rules that could be repealed.

Eng. Com. Sub. for House Bill 4150, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

Eng. Com. Sub. for House Bill 4233, Relating generally to fraudulent transfers.

Eng. Com. Sub. for House Bill 4309, Restricting the sale and trade of dextromethorphan.

Eng. Com. Sub. for House Bill 4320, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

Eng. House Bill 4324, Relating to the employment of individuals by municipal paid fire departments under civil service.

Eng. Com Sub. for House Bill 4345, Relating to limitations on permits for growers, processors and dispensaries of medical cannabis.

Eng. House Bill 4486, Relating to persons required to obtain a license to engage in the business of currency exchange.

And,

Eng. House Bill 4488, Relating to the Hatfield-McCoy Recreation Authority.

And reports the same back without recommendation as to passage; but with the further recommendation that they each be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 2982, 4002, 4011, 4150, 4233, 4309, 4320, and 4345 and Eng. H. B. 4324, 4486, and 4488) contained in the preceding report from the Committee on the Judiciary were each taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Ferns, and by unanimous consent, the bills were rereferred to the Committee on the Judiciary.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4001, Relating to eligibility and fraud requirements for public assistance.

And reports the same back without recommendation as to passage; but with the further recommendation that it be rereferred to the Committee on Health and Human Resources.

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4001) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

At the request of Senator Ferns, and by unanimous consent, the bill was rereferred to the Committee on Health and Human Resources.

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 4009, State Settlement and Recovered Funds Accountability Act.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4009) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4156, Establishing the qualifications of full and part time nursing school faculty members.

And has amended same.

Eng. Com. Sub. for House Bill 4392, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

And has amended same.

And,

Eng. Com. Sub. for House Bill 4524, Establishing guidelines for the substitution of certain biological pharmaceuticals.

And has amended same.

And reports the same back with the recommendation that they each do pass, as amended.

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 4156, 4392, and 4524) contained in the preceding report from the Committee on Health and Human Resources were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4187, Business Liability Protection Act.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4187) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4217, Permitting an attending physician to obtain a patient's autopsy report.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4217) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4270, Providing for the timely payment of moneys owed from oil and natural gas production.

With an amendment from the Committee on Energy, Industry, and Mining pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4270) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 4338, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4338) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4424, Providing that the Ethics Act applies to certain persons providing services without pay to state elected officials.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4424) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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 4603, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4603) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Gaunch, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. House Bill 4629, Relating to broadband enhancement and expansion policies generally.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

C. Edward Gaunch,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4629) contained in the preceding report from the Committee on Government Organization was taken up for

immediate consideration, read a first time, and ordered to second reading.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

House Concurrent Resolution 19, World Moyamoya Awareness Day.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Tom Takubo,
Chair.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 6:07 p.m., the Senate adjourned until tomorrow, Thursday, March 8, 2018, at 11 a.m.

THURSDAY, MARCH 8, 2018

The Senate met at 11:31 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Pastor David Clark, Belle Church of the Nazarene, Belle, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Sue Cline, a senator from the ninth district.

Pending the reading of the Journal of Wednesday, March 7, 2018,

At the request of Senator Jeffries, 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.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Maroney as to the introduction of Cooper Blair, an eighth grade student at Our Lady of Peace School, were ordered printed in the Appendix to the Journal.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 36, Relating generally to DNA testing.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 51, Relating to domestic relations.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page six, section two hundred six, line eight, after the words "have a" by inserting the word "meaningful";

On page seven, section two hundred six, after line forty, by inserting a new subsection, designated subsection (b), to read as follows:

(b) The court shall not consider the allocation of custodial responsibility arising from temporary arrangements after separation, whether those arrangements are consensual or by court order.;

And by relettering the remaining subsections;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 51—A Bill to amend and reenact §48-6-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-9-205 and §48-9-206 of said code, all relating to domestic relations; removing language related to child support from code section governing the awarding of spousal support and separate maintenance; directing court to consider certain factors to decide amount and duration of spousal support and separate maintenance; removing the 24-month time frame for a description of the allocation of caretaking and other parenting responsibilities performed from the matters contained in permanent parenting plan; clarifying that the court may accommodate the preferences of a child 14 years of age and older if the court determines it is in the best interests of the child; directing court to allocate custodial responsibility so that custodial time spent with each parent achieves certain objectives; and directing courts to consider which parent will encourage and accept a positive relationship between child and other parent and which parent is more likely to keep other parent involved in child's life and activities.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 51) and requested the House of Delegates to recede therefrom.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 282, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-3. Powers and duties of Director of Purchasing.

The director, under the direction and supervision of the secretary, is the executive officer of the Purchasing Division and has the power and duty to:

(1) Direct the activities and employees of the Purchasing Division;

(2) Ensure that the purchase of or contract for commodities and services are based, whenever possible, on competitive bid;

(3) Purchase or contract for, in the name of the state, the commodities, services, and printing required by the spending units of the state government;

(4) Apply and enforce standard specifications established in accordance with §5A-3-5 of this code as hereinafter provided;

(5) Transfer to or between spending units or sell commodities that are surplus, obsolete, or unused as hereinafter provided;

(6) Have charge of central storerooms for the supply of spending units as the director considers advisable;

(7) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose as hereinafter provided as the director considers advisable;

(8) Suspend the right and privilege of a vendor to bid on state purchases when the director has evidence that the vendor has violated any of the provisions of the purchasing law or the rules and regulations of the director;

(9) Examine the provisions and terms of every contract entered into for and on behalf of the State of West Virginia that impose any obligation upon the state to pay any sums of money for commodities or services and approve the contract as to such provisions and terms; and the duty of examination and approval herein set forth does not supersede the responsibility and duty of the Attorney General to approve the contracts as to form: *Provided*, That the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the Division of Highways of the Department of Transportation or to construction or reclamation contracts entered into by the Department of Environmental Protection: *Provided, however*, That the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into by the University of West Virginia Board of Trustees or by the board of directors of the state college system, except to the extent that such boards request the facilities and services of the director under the provisions of this subdivision: *Provided further*, That the provisions of this subdivision do not apply to the West Virginia State Police and the West Virginia Office of Laboratory Services: *And provided further*, That the provisions of this subdivision do not apply to joint funding agreements with the United States Geological Survey;

(10) Assure that the specifications and descriptions in all solicitations are prepared so as to provide all potential suppliers-vendors who can meet the requirements of the state an opportunity to bid and to assure that the specifications and descriptions do not favor a particular brand or vendor. If the director determines that any such specifications or descriptions as written favor a particular brand or vendor or if it is decided, either before or after the bids are opened, that a commodity or service having different specifications or quality or in different quantity can be bought, the director may rewrite the solicitation and the matter shall be rebid; and

(11) Issue a notice to cease and desist to a spending unit when the director has credible evidence that a spending unit has violated competitive bidding or other requirements established by this article and the rules promulgated hereunder. Failure to abide by the notice may result in penalties set forth in §5A-3-17 of this code.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 282—A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting joint funding agreements with the United States Geological Survey from purchasing requirements.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 282) and requested the House of Delegates to recede therefrom.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 298, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section two, line seven, by striking out the word “exclusively” and inserting in lieu thereof the words “primarily and immediately”;

And,

On page one, section two, line ten, by striking out the word “exclusively” and inserting in lieu thereof the words “primarily and immediately”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 298, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 298) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 299, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE, AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES
INSURANCE ACT.**

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan, and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans and a group life and accidental death insurance plan or plans for those

employees herein made eligible and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:

(1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age 18 or over;

(2) Annual checkups for prostate cancer in men age 50 and over;

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed healthcare facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or prior to 96 hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

(5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in subdivision (4) of this subsection if inpatient care is determined to be medically

necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances, and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and

(6) Coverage for treatment of serious mental illness:

(A) The coverage does not include custodial care, residential care, or schooling. For purposes of this section, “serious mental illness” means an illness included in the American Psychiatric Association’s diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not yet attained the age of 19 years, “serious mental illness” also includes attention deficit hyperactivity disorder, separation anxiety disorder, and conduct disorder.

(B) Notwithstanding any other provision in this section to the contrary, if the agency demonstrates that its total costs for the treatment of mental illness for any plan exceeds two percent of the total costs for such plan in any experience period, then the agency may apply whatever additional cost-containment measures may be necessary in order to maintain costs below two percent of the total costs for the plan for the next experience period. These measures may include, but are not limited to, limitations on inpatient and outpatient benefits.

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use recognized healthcare quality and cost management tools including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum

number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks, and using patient cost sharing in the form of copayments, deductibles, and coinsurance.

(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia.

(B) A child who is 12 years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.

(B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual. This subdivision does not limit, replace or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et seq.*, as amended from time to time or other publicly funded programs. Nothing in this subdivision requires reimbursement for services provided by public school personnel.

(C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:

(i) The individual's condition is improving in response to treatment;

(ii) A maximum improvement is yet to be attained; and

(iii) There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.

(D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation and any recommendations the

agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.

(E) For purposes of this subdivision, the term:

(i) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(ii) “Autism spectrum disorder” means any pervasive developmental disorder including autistic disorder, Asperger’s Syndrome, Rett Syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(iii) “Certified behavior analyst” means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

(iv) “Objective evidence” means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

(F) To the extent that the application of this subdivision for autism spectrum disorder causes an increase of at least one percent of actual total costs of coverage for the plan year, the agency may apply additional cost containment measures.

(G) To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act,

Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(10) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has

issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(b) The agency shall, with full authorization, make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare- eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or

advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance, and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.

(a) The director is hereby given exclusive authorization to execute such contract or contracts as are necessary to carry out the provisions of this article and to provide the plan or plans of group hospital and surgical insurance coverage, group major medical insurance coverage, group prescription drug insurance coverage, and group life and accidental death insurance coverage selected in accordance with the provisions of this article, such contract or contracts to be executed with one or more agencies, corporations, insurance companies or service organizations licensed to sell group hospital and surgical insurance, group major medical insurance, group prescription drug insurance and group life and accidental death insurance in this state.

(b) The group hospital or surgical insurance coverage and group major medical insurance coverage herein provided shall include coverages and benefits for x-ray and laboratory services in connection with mammogram and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age 50 and over. Such benefits shall include, but not be limited to, the following:

(1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force;

(2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force

or The American College of Obstetricians and Gynecologists, for women age 18 and over;

(3) A test for the human papilloma virus (HPV) for women age 18 or over, when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age 18 and over;

(4) A checkup for prostate cancer annually for men age 50 or over; and

(5) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation.

(6) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is either an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia; or

(B) A child who is 12 years of age or younger with documented phobias, or with documented mental illness, and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(7) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(c) The group life and accidental death insurance herein provided shall be in the amount of \$10,000 for every employee. The amount of the group life and accidental death insurance to

which an employee would otherwise be entitled shall be reduced to \$5,000 upon such employee attaining age sixty-five.

(d) All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

(e) The provisions of §5A-3-1 et seq. of this code, relating to the Division of Purchasing of the Department of Finance and Administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as authorized in this article, the director shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired: *Provided*, That the director shall negotiate and contract directly with healthcare providers and other entities, organizations and vendors in order to secure competitive premiums, prices and other financial advantages. The director shall deal directly with insurers or healthcare providers and other entities, organizations and vendors in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for the agent or agents may be paid by the underwriting company or companies: *Provided, however*, That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award the contract or contracts on a competitive basis. In awarding the contract or contracts the director shall take into account the experience of the offering agency, corporation, insurance company, or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director may

employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the director with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical or life and accidental death insurance coverage.

(f) The director may authorize the carrier with whom a primary contract is executed to reinsure portions of the contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state.

(g) Each employee who is covered under any contract or contracts shall receive a statement of benefits to which the employee, his or her spouse and his or her dependents are entitled under the contract, setting forth the information as to whom the benefits are payable, to whom claims shall be submitted and a summary of the provisions of the contract or contracts as they affect the employee, his or her spouse and his or her dependents.

(h) The director may at the end of any contract period discontinue any contract or contracts it has executed with any carrier and replace the same with a contract or contracts with any other carrier or carriers meeting the requirements of this article.

(i) The director shall provide by contract or contracts entered into under the provisions of this article the cost for coverage of children's immunization services from birth through age sixteen years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus, hepatitis-b, hemophilia influenzae-b, and whooping cough. Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes. Any contract entered into to cover these services shall require that all costs associated with immunization, including the cost of the vaccine, if incurred by the healthcare provider, and all costs of vaccine administration be exempt from any deductible, per visit charge and/or copayment provisions which may be in force in these

policies or contracts. This section does not require that other healthcare services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4p. Coverage for amino acid-based formulas.

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That

these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3bb. Coverage for amino acid-based formulas.

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That

these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.

§33-24-7q. Coverage for amino acid-based formulas.

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That

these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

ARTICLE 25. HEALTHCARE CORPORATION.

§33-25-8n. Coverage for amino acid-based formulas.

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That

these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8p. Coverage for amino acid-based formulas.

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, “medically necessary foods” or “medical foods” shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That

these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 299—A Bill to amend and reenact §5-16-7 and §5-16-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §33-15-4p; to amend said code by adding thereto a new section, designated §33-16-3bb; to amend said code by adding thereto a new section, designated §33-24-7q; to amend said code by adding thereto a new section, designated §33-25-8n; and to amend said code by adding thereto a new section, designated §33-25A-8p, all relating to mandatory insurance coverage, up to the age of 20, for certain medical foods for amino acid-based formulas; providing a list of diagnosed conditions for which insurance coverage should extend; providing that coverage extends to medically necessary foods for home use when prescribed by a physician; defining terms; and providing for exclusions from such coverage.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 299, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 299) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 347, Relating to operation of motorboats.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page two, section eleven, line twenty-three, by striking out the word “principle” and inserting in lieu thereof the word “principal”;

On page two, section twelve, line one, by striking out the word “principle” and inserting in lieu thereof the word “principal”;

On page four, section twelve, line forty-seven, by striking out the word “principle” and inserting in lieu thereof the word “principal”;

And,

On page ten, section fourteen, line five, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 347, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 347) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 359, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 461, Extending time to file petition for motor fuel excise tax refund.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On pages one through five, by striking out all of section nine;

On page six, section thirty-one, lines nine and ten, by striking out “§11-14C-9(c)” and inserting in lieu thereof “§11-14C-9(c)(15)”;

On page seven, section thirty-one, line thirty-eight, by striking out “§11-14C-9(c) or §11-14C-9(d)” and inserting in lieu thereof “§11-14C-9(c)(15)”;

On page seven, section thirty-one, lines forty-one and forty-two, after “§11-14C-9(c)(6) of this code” by striking out the comma and inserting in lieu thereof the word “and”;

On page seven, section thirty-one, line forty-four, after the words “June 30” by changing the period to a colon and inserting the following proviso: *Provided further, That a petition for refund under §11-14C-9(d)(10) of this code shall be filed with the commissioner on or before the last day of January, April, July and October for purchases of motor fuel during the immediately preceding calendar quarter.*;

On page seven, section thirty-one, line forty-seven, by striking out “§33-10-14” and inserting in lieu thereof “§11-10-14”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for 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 refunds of motor fuel excise tax by certain taxpayers; extending time periods for certain taxpayers to file petition for refunds; and maintaining current time period to file petition for refunds of taxes paid on motor fuel sold for certain purposes.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 461, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 461) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Com. Sub. for Senate Bill 465, Relating to mandated reporting of child abuse and neglect.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 475, Industrial Hemp Development Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 479, Establishing local government monitoring by Auditor.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Com. Sub. for Senate Bill 500, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 543, Relating to confidentiality of medical records.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 555, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 574, Relating to crime of misrepresentation of military honors.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 575, Approving additional beds for intermediate care facilities.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page five, section nine, lines nine through thirteen, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) Add beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility for individuals with intellectual disabilities beds approved under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E. 2d 232 (1981) including the 24 beds provided in §16-2D-8(b)(24) of this code; and”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 575, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 575) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 576, Relating to Patient Injury Compensation Fund.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page four, section one-a, line seventy, by striking out the word “of” and inserting in lieu thereof the word “or”;

On page five, section eleven, line fifteen, by striking out the words “on and”;

On page five, section eleven, line sixteen, after “\$280” by changing the semicolon to a comma and inserting the words “of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code;”;

On page nine, section twenty-eight-a, line thirty-three, by striking out “§11-1-11(a)(3)” and inserting in lieu thereof “§59-1-11(a)(4)”;

On page nine, section twenty-eight-a, line thirty-four, by striking out “§11-1-11(a)(4)” and inserting in lieu thereof “§59-1-11(a)(5)”;

And,

On page ten, section twenty-eight-a, line forty-six, after “§29-12D-1” by inserting the words “et seq.”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 576, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 576) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 582, Allowing candidate for political party executive committee serve as election official.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section twenty-eight, line eleven, after the word “committee” by inserting the words “or delegate to the national convention of a political party”;

On page one, section twenty-eight, lines twelve and thirteen, by striking out all of subsection (4) and inserting in lieu thereof a new subsection, designated subsection (4), to read as follows:

“(4) May not be the parent, child, sibling, or spouse of a candidate on the ballot for any office, other than for district, county, or state political party executive committee or delegate to the national convention of a political party, or an official write-in candidate for any office, other than for district, county, or state political party executive committee or delegate to the national convention of a political party, in the precinct where the official serves;”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 582—A Bill to amend and reenact §3-1-28 of the Code of West Virginia, 1931, as amended, relating to eligibility to be appointed or serve as an election official; and permitting candidates for district, county, or state political party executive committee or delegate to the national convention of a political party, and permitting the parent, child, sibling, or spouse of such a candidate, to serve as election officials.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 582) and requested the House of Delegates to recede therefrom.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 584, Finding certain claims against state to be moral obligations of state.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page ten, section one, subsection (f), subdivision (206), by striking out “Mazaska” and inserting in lieu thereof “Mazeska”;

On page ten, section one, subsection (f), subdivision (210), after the word “Kenneth” by inserting the words “McGee and”;

On page thirteen, section one, subsection (f), subdivision (274), by striking out “\$115.00” and inserting in lieu thereof “\$442.98”;

On page fifteen, section one, subsection (f), subdivision (335), by striking out “\$220.69” and inserting in lieu thereof “\$239.76”;

And,

On page seventeen, section one, after subsection (k), by inserting a new subsection, designated subsection (l), to read as follows:

(l) Claim against the Public Service Commission of West Virginia:

(TO BE PAID FROM SPECIAL REVENUE FUND)

(1) Pullman Power, LLC\$204,176.95

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 584, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: Woelfel—1.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 584) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: Woelfel—1.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 584) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 589, Relating to issuance of personalized plates for antique motor vehicles.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 590, Providing special license plate for curing childhood cancer.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 616, Establishing maximum gross weight for certain wood-bearing trucks.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page three, section eleven, line fifty-eight, after the word “The” by inserting the word “maximum”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 616, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Drennan and Woelfel—2.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 616) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Senate Bill 626, Relating generally to coal mining.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-9. Permit application requirements and contents.

(a) The surface mining permit application shall contain:

(1) The names and addresses of: (A) The permit applicant; (B) the owner of record of the property, surface, and mineral to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; (E) the operator, if different from the applicant; and (F) if any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(2) The names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area: *Provided*, That all residents living on property contiguous to the proposed permit area shall be notified by the applicant, by registered or certified mail, of such application on or before the first day of publication of the notice provided for in §22-3-9(a)(6) of this code;

(3) A statement of any current surface mining permits held by the applicant in the state and the permit number and each pending application;

(4) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: The names and addresses of every officer, partner, resident agent, director or person performing a function similar to a director, together with the names and addresses of any person owning of record 10 percent or more of any class of voting stock of the applicant; and a list of all names under which the applicant, officer, director, partner, or principal shareholder previously operated a surface mining operation in the United States within the five-year period preceding the date of submission of the application;

(5) A statement of whether the applicant, or any officer, partner, director, principal shareholder of the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever been an officer, partner, director, or principal shareholder in a company which has ever held a federal or state mining permit which in the five-year period prior to the date of submission of the application has been permanently suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed permit area at least once a week for four successive weeks on a form and in a manner prescribed by the secretary, which manner may be electronic. The advertisement shall contain, in abbreviated form, the information required by this section including the ownership and map of the tract location and boundaries of the proposed site so that the proposed operation is readily locatable by local residents, the location of the office of the ~~division~~ department where the application is available for public inspection, and stating that written protests will be accepted by the ~~director~~ secretary until a certain date which is at least 30 days after the last publication of the applicant's advertisement;

(7) A description of the type and method of surface mining operation that exists or is proposed, the engineering techniques used or proposed, and the equipment used or proposed to be used;

(8) The anticipated starting and termination dates of each phase of the surface mining operation and the number of acres of land to be affected;

(9) A description of the legal documents upon which the applicant's legal right to enter and conduct surface mining operations on the proposed permit area is based and whether that right is the subject of pending court litigation: *Provided*, That nothing in this article may be construed as vesting in the ~~director~~ secretary the jurisdiction to adjudicate property-rights disputes;

(10) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the ~~director~~ secretary of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area, and particularly upon water availability: *Provided*, That this determination is not required until ~~such~~ the time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency or, if existing and in the possession of the applicant, from the applicant: *Provided, however*, That the permit application shall not be approved until the information is available and is incorporated into the application;

(12) Accurate maps to an appropriate scale clearly showing:
(A) The land to be affected as of the date of application; (B) the area of land within the permit area upon which the applicant has the legal right to enter and conduct surface mining operations; and

(C) all types of information set forth on enlarged topographical maps of the United States geological survey of a scale of 1:24,000 or larger, including all man-made features and significant known archaeological sites existing on the date of application. In addition to other things specified by the ~~director~~ secretary, the map shall show the boundary lines and names of present owners of record of all surface areas abutting the proposed permit area and the location of all structures within 1,000 feet of the proposed permit area;

(13) Cross-section maps or plans of the proposed affected area, including the actual area to be mined, prepared by, or under the direction of, and certified by a person approved by the ~~director~~ secretary, showing pertinent elevation and location of test borings or core samplings, where required by the ~~director~~ secretary, and depicting the following information: (A) The nature and depth of the various strata or overburden; (B) the location of subsurface water, if encountered, and its quality; (C) the nature and thickness of any coal or rider seams above the seam to be mined; (D) the nature of the stratum immediately beneath the coal seam to be mined; (E) all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; (F) existing or previous surface mining limits; (G) the location and extent of known workings of any underground mines, including mine openings to the surface; (H) the location of any significant aquifers; (I) the estimated elevation of the water table; (J) the location of spoil, waste, or refuse areas and topsoil preservation areas; (K) the location of all impoundments for waste or erosion control; (L) any settling or water treatment facility or drainage system; (M) constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and (N) adequate profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(14) A statement of the result of test borings or core samples from the permit area, including: (A) Logs of the drill holes; (B) the thickness of the coal seam to be mined and analysis of the chemical and physical properties of the coal; (C) the sulfur content of any coal seam; (D) chemical analysis of potentially acid or toxic

forming sections of the overburden; and (E) chemical analysis of the stratum lying immediately underneath the coal to be mined: *Provided*, That the provisions of this subdivision may be waived by the ~~director~~ secretary with respect to the specific application by a written determination that such requirements are unnecessary;

(15) For those lands in the permit application which a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the ~~secretary~~ Commissioner of Agriculture in order to confirm the exact location of ~~such~~ the prime farmlands;

(16) A reclamation plan as presented in §22-3-10 of this code;

(17) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest who is or may be adversely affected: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal, except information regarding mineral or elemental content which is potentially toxic to the environment, shall be kept confidential and not made a matter of public record;

(18) When requested by the ~~director~~ secretary, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges; and

(19) Other information that may be required by rules reasonably necessary to effectuate the purposes of this article.

(b) If the ~~director~~ secretary finds that the probable total annual production at all locations of any coal surface mining operator will not exceed 300,000 tons, the determination of probable hydrologic consequences including the engineering analyses and designs necessary as required by this article or rules promulgated thereunder; the development of cross-section maps and plans as required by this article or rules promulgated thereunder; the geologic drilling and statement of results of test borings and core

samplings as required by this article or rules promulgated thereunder; preblast surveys required by this article or rules promulgated thereunder; the collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by this article or rules promulgated thereunder; and the collection of archaeological and historical information required by this article and rules promulgated thereunder and any other archaeological and historical information required by the federal Department of the Interior and the preparation of plans that may be necessitated thereby shall, upon the written request of the operator, be performed by a qualified public or private laboratory designated by the ~~director~~ secretary and a reasonable cost of the preparation of ~~such~~ the determination and statement shall be assumed by the ~~division~~ department from funds provided by the United States Department of the Interior pursuant to the federal Surface Mining Control and Reclamation Act of 1977, as amended.

(c) Before the first publication of the applicant's advertisement as provided in this section, each applicant for a surface mining permit shall file, except for that information pertaining to the coal seam itself, a copy of the application for public inspection in the nearest office of the ~~division~~ department as specified in the applicant's advertisement.

(d) Each applicant for a permit shall be required to submit to the ~~director~~ secretary as a part of the permit application a certificate issued by an insurance company authorized to do business in this state covering the surface mining operation for which the permit is sought, or evidence that the applicant has satisfied state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

(e) Each applicant for a surface mining permit shall submit to the ~~director~~ secretary as part of the permit application a blasting plan where explosives are to be used, which shall outline the procedures and standards by which the operator will meet the provisions of the blasting performance standards.

(f) The applicant shall file, as part of the permit application, a schedule listing all notices of violation, bond forfeitures, permit revocations, cessation orders, or permanent suspension orders resulting from a violation of the federal Surface Mining Control and Reclamation Act of 1977, as amended, this article or any law or regulation of the United States or any department or agency of any state pertaining to air or environmental protection received by the applicant in connection with any surface mining operation during the three-year period prior to the date of application, and indicating the final resolution of any notice of violation, forfeiture, revocation, cessation, or permanent suspension.

(g) Within five working days of receipt of an application for a permit, the ~~director~~ secretary shall notify the operator in writing, stating whether the application is administratively complete and whether the operator's advertisement may be published. If the application is not administratively complete, the ~~director~~ secretary shall state in writing why the application is not administratively complete.

§22-3-20. Public notice; written objections; public hearings; informal conferences.

(a) At the time of submission of an application for a surface mining permit or a significant revision of an existing permit pursuant to the provisions of this article, the applicant shall submit to the department a copy of the required advertisement for public notice on a form and in a manner prescribed by the secretary, which manner may be electronic. At the time of submission, the applicant shall place the advertisement in a local newspaper of general circulation in the county of the proposed surface-mining operation at least once a week for four consecutive weeks. The secretary shall notify various appropriate federal and state agencies as well as local governmental bodies, planning agencies, and sewage and

water treatment authorities or water companies in the locality in which the proposed surface mining operation will take place, notifying them of the operator's intention to mine on a particularly described tract of land and indicating the application number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies may submit written comments within a reasonable period established by the secretary on the mining application with respect to the effect of the proposed operation on the environment which is within their area of responsibility. ~~Such~~ The comments shall be immediately transmitted by the secretary to the applicant and to the appropriate office of the department. The secretary shall provide the name and address of each applicant to the Commissioner of the Division of Labor who shall, within 15 days from receipt, notify the secretary as to the applicant's compliance, if necessary, pursuant to §21-5-14 of this code.

(b) Any person having an interest which is or may be adversely affected, or the officer or head of any federal, state, or local governmental agency, has the right to file written objections to the proposed initial or revised permit application for a surface mining operation with the secretary within 30 days after the last publication of the advertisement required in §22-3-20(a) of this code. ~~Such~~ The objections shall be immediately transmitted to the applicant by the secretary and shall be made available to the public. If written objections are filed and an informal conference requested within 30 days of the last publication of the above notice, the secretary shall then hold a conference in the locality of the proposed mining within a reasonable time after the close of the public comment period. Those requesting the conference shall be notified and the date, time, and location of the informal conference shall also be advertised by the secretary in a newspaper of general circulation in the locality on a form and in a manner prescribed by the secretary, which manner may be electronic, at least two weeks prior to the scheduled conference date. The secretary may arrange with the applicant, upon request by any party to the conference proceeding, access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding

unless waived by all parties. The record shall be maintained and shall be accessible to the parties at their respective expense until final release of the applicant's bond or other security posted in lieu thereof. The secretary's authorized agent shall preside over the conference. In the event all parties requesting the informal conference stipulate agreement prior to the conference and withdraw their request, a conference need not be held.

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-7a. Certification agreements; required provisions; ~~effective date.~~

(a) Any applicant for the water quality certification that seeks certification of activities covered by the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 ~~for use at or in conjunction with a surface coal mining operation as defined in section three, article three of this chapter, certification may be issued subject to the following conditions:~~ may be issued a certification in accordance with the legislative rules entitled Rules for Individual State Certification of Activities Requiring a Federal Permit, 47 C.S.R. 5A.

(1) ~~If the applicant's surface coal mining operation will not impact waters of the state designated as national resource waters and streams where trout naturally reproduce and will not impact wetlands of the state in a manner inconsistent with all applicable state or federal standards as the case may be, as required by the federal Clean Water Act, and if the watershed above the toe of the farthest downstream permanent structure authorized pursuant to the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 is less than two hundred fifty acres, then the director may issue a water quality certification pursuant to the requirements of this section. If the watershed above the toe of the farthest downstream permanent structure impacted is equal to or greater than two hundred fifty acres, the director shall require that mitigation be undertaken. Additionally, the director may require mitigation for~~

temporary impacts to waters of the state as specified in subdivision (2) of this subsection.

~~(2) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 is greater than or equal to two hundred fifty acres and all other necessary requirements are met consistent with this section, the director shall further condition a water quality certification on a requirement that the applicant mitigate the expected water quality impacts under the following conditions:~~

~~(A) The water quality certification may require mitigation at a ratio appropriate to the type of waters impacted, consistent with state or federal standards as required by the federal Clean Water Act, for the types and locations of waters impacted;~~

~~(B) The Director may accept mitigation on the permitted area, mitigation off the permitted area, mitigation banking of waters of the state, or any combination thereof, or any other mitigation measure acceptable to the Director; and~~

~~(C) The Director shall provide credit for any mitigation that is a required component of the permit issued by the United States Army Corps of Engineers pursuant to 33 U.S.C. §1344 to the extent that it satisfies required mitigation pursuant to this section.~~

~~(D) Upon completion of the work required by an agreement to conduct operations authorized by this subsection the surface coal mining operation shall obtain a certification from a registered professional engineer that all mitigation work specified in the agreement has been completed in accordance with the conditions of the water quality certification. The director shall promptly review the certification and provide to the surface coal mining operation with notice that all mitigation work has been successfully completed, or that further mitigation work is necessary to meet the conditions imposed by the water quality certification. The mitigation amount may not exceed \$200,000 per acre of stream disturbed above the toe of the farthest downstream permanent~~

~~structure. Those moneys shall be deposited in the stream restoration fund under the jurisdiction of the Division of Environmental Protection and any expenditures from this fund after June 30, 1998, shall not be authorized from collections but shall only be authorized by appropriation by the Legislature. Additionally, the expenditures are only authorized in those counties where the activity leading to the mitigation occurred or in those counties adjacent to the counties where the activity leading to the mitigation occurred. The Director shall by December 31, of each year provide a report to the Joint Committee on Government and Finance on receipts and expenditures from the stream restoration fund, the number of acreage reclaimed by the Division through the use of these funds and the effectiveness of achieving stream restoration through the payment of the mitigation amounts into the fund in lieu of reclamation by the certificate holder.~~

~~(3) The Director shall confer with representatives of the surface coal mining industry and representatives of environmental organizations with an interest in water quality in developing a manual of approval options for mitigation on permitted areas, mitigation off permitted areas and mitigation involving banking of waters of the state.~~

~~(4) (1) The proposed surface coal mining operation activity shall comply with all applicable state and federal laws, rules, and regulations.~~

~~(5) (2) The ~~director~~ secretary shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, for the purpose of implementing the provisions of this section which rules shall include, but not be limited to, the following:~~

~~(A) Establishing all necessary operational and performance requirements for ~~an operator~~ a person undertaking activities covered by this section;~~

~~(B) Modifying the provisions of this section, when necessary and appropriate to bring the provisions of this section into compliance with state or federal law or regulation; and~~

(C) Establishing the specific operational requirements for ~~mining operations~~ the activity consistent with this section appropriate to protect the waters of this state during and following ~~mining operations~~ the activity.

(b) The Joint Committee on Government and Finance may undertake or facilitate a study of the impact of mountaintop mining and valley fills upon the State of West Virginia.

(1) To facilitate the study, the Joint Committee on Government and Finance is further authorized to coordinate with and seek funding from appropriate federal agencies to facilitate the study including, but not limited to: The federal Environmental Protection Agency, Army Corps of Engineers, Office of Surface Mining Reclamation and Enforcement, and ~~the~~ Fish and Wildlife Service.

(2) In order to facilitate the research, the Joint Committee on Government and Finance shall appoint a council to coordinate and direct the research. The composition of the council shall be determined by the joint committee, but shall include representatives from the various interested parties as determined solely by the joint committee.

CHAPTER 22A. MINERS' HEALTH, SAFETY, AND TRAINING.

ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION; ENFORCEMENT.

§22A-1-36. Mandatory safety programs; penalties.

(a) The director, in consultation with the state Board of Coal Mine Health and Safety, shall promulgate rules in accordance with §29A-1-1 *et seq.* of this code, detailing the requirements for mine safety programs to be established by coal operators, as provided in §22A-1-36(b) of this code. The rules may require different types of safety programs to be developed, depending upon the output of the particular mine, the number of employees of the particular mine, the location of the particular mine, the physical features of the particular mine, or any other factor deemed relevant by the director.

(b) Within six months of the date when the rules required in §22A-1-36(a) of this code become final, each operator shall develop and submit to the director a comprehensive mine safety program for each mine, in accordance with such rules. Each employee of the mine shall be afforded an opportunity to review and submit comments to the director regarding the modification or revision of such program, prior to submission of such program to the director. Upon submission of such program the director has ~~ninety~~ 90 days to approve, reject, or modify such program. If the program is rejected, the director shall give the operator a reasonable time to correct and resubmit such program. ~~Each program which is approved shall be reviewed, at least annually, by the director.~~ An up-to-date copy of each program shall be placed on file in the office and further copies shall be made available to the miners of each mine and their representatives. Each operator shall undertake all efforts necessary to assure total compliance with the appropriate safety program at each mine and shall fully implement all portions of such program. Once approved, a comprehensive mine safety program shall not be subject to annual review by the director: *Provided*, That a program may be subject to annual review by the director after a fatality or serious accident involving bodily harm has occurred, or, if the operator has shown a pattern of mine safety violations as defined by §22A-1-15(2) of this code, such a finding shall also warrant annual review by the director. The director shall promulgate emergency rules in order to comply with this subsection.

(c) Any person violating any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or imprisoned in the county jail for not more than six months, or both fined and imprisoned.

§22A-1-42. Surface ground control plan; automated external defibrillator.

(a) The MSHA-approved surface ground control plan shall serve as the state-approved plan, and the operator, upon approval by MSHA, shall provide a copy of the MSHA-approved surface ground control plan to the director.

(b) Automated external defibrillators (AEDs) shall be required on all surface mining operations. The director shall promulgate emergency rules in order to comply with this section of code, giving special consideration to the climate sensitive nature of AEDs.

ARTICLE 2. UNDERGROUND MINES.

VENTILATION

§22A-2-2. Submittal of detailed ventilation plan to director.

(a) A mine operator shall submit a detailed ventilation plan and any addenda to the director for review and comment. The mine operator shall review the plan with the director and address concerns to the extent practicable. The operator shall deliver to the miners' representative employed by the operator at the mine, if any, a copy of the operator's proposed annual ventilation plan at least 10 days prior to the date of submission. The miners' representative, if any, shall be afforded the opportunity to submit written comments to the operator prior to such submission; in addition, the miners' representative, if any, may submit written comments to the director. The director shall submit any concern that is not addressed to the United States Department of Labor - Mine Safety and Health Administration (MSHA) through comments to the plan. The mine operator shall provide a copy of the plan to the director 10 days prior to the submittal of the plan to MSHA. The MSHA-approved plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

(b) The operator shall give the director a copy of the MSHA-approved plan and any addenda as soon as the operator receives the approval.

(c) In the event of an unforeseen situation requiring immediate action on a plan revision, the operator shall submit the proposed revision to the director and the miners' representative, if any, employed by the operator at the mine when the proposed revision is submitted to MSHA. The director shall work with the operator

to review and comment on the proposed plan revision to-MSHA as quickly as possible.

(d) Upon approval by MSHA, the plan is enforceable by the director. The approved plan and all revisions and addenda thereto shall be posted on the mine bulletin board and made available for inspection by the miners at that mine for the period of time that they are in effect.

§22A-2-3. Fans.

(a) The ventilation of mines, the systems for which extend for more than 200 feet underground, and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. Ventilation by means of a furnace is prohibited in any mine. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the director. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or the operator's management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in 15 minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be reexamined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in 15 minutes, all underground employees shall be removed from the mine, all power shall be cut off in a timely manner, and the underground employees shall not return until ventilation is restored and the mine examined by certified persons, mine examiners, or other persons holding a certificate to make preshift examination. If ventilation is restored to the mine before miners reach the surface, the miners may return to underground working areas only after an examination of the areas is made by a certified person and the areas are determined to be safe.

(b) All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than 15 feet from the nearest side of the mine opening, equipped

with fireproof air ducts, provided with explosion doors or a weak wall, and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: *Provided*, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: *Provided, however*, That there is another opening having a weak wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

(c) Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: *Provided*, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

(d) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be, by means of the primary air current conducted into the place, in a manner to prevent accumulation of methane.

(e) In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends, and idle shifts shall be provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

(f) The director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

(g) In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of the air current changed without the approval of the general mine foreman, and, if he or she is not immediately available, a representative of the Office of Miners' Health, Safety, and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

(h) The MSHA-approved plan relating to fans shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

§22A-2-4. Ventilation of mines in general.

(a) The operator or mine foreman of every coal mine, whether worked by shaft, slope, or drift, shall provide and hereafter maintain for every such mine adequate ventilation. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or set of entries shall be not less than 9,000 cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of 3,000 cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than 9,000 cubic feet of air per minute if at least 9,000 cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. The operator shall provide to the safety committee access to anonometers and smoke tubes while performing their duties. All active underground working places in a mine shall be ventilated by a current of air containing not less than 19 and five-tenths percent of oxygen, not more than five-tenths percent of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(b) Airflow shall be maintained in all intake and return air courses of a mine and, where multiple fans are used, neutral areas created by pressure equalization between main fans shall not be permitted. Production activities in working faces shall cease while tubing, line brattice or other ventilation devices are being installed in by the machine operator.

(c) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive and noxious gases, dust, and explosive fumes. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(d) Brattice cloth used underground shall be of flame-resistant material. The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive and noxious gases, dust, and explosive fumes.

(e) Each working unit newly developed in virgin coal hereafter, shall be ventilated by a separate split of air: *Provided*, That in areas already under development and in areas where physical conditions prevent compliance with this provision, the director may grant temporary relief from compliance until such time as physical conditions make compliance possible. The quantity of air reaching the last crosscut shall not be less than 9,000 cubic feet of air per minute and shall under any condition have sufficient volume and velocity to reduce and carry away smoke and flammable or harmful gases from each working face in the section.

(f) As working places advance, crosscuts for air shall be made not more than 105 feet apart. Where necessary to render harmless and carry away noxious or flammable gases, line brattice or other approved methods of ventilation shall be used so as to properly ventilate the face. All crosscuts between the main intake and return airways not required for passage of air and equipment shall be closed with stoppings substantially built with incombustible or

fire-resistant material so as to keep working places well ventilated. In mines where it becomes necessary to provide larger pillars for adequate roof support, working places shall not be driven more than 200 feet without providing a connection that will allow the free flow of air currents. In such cases, a minimum of 12,000 cubic feet of air a minute shall be delivered to the last open crosscut and as much more as is necessary to dilute and render harmless and carry away flammable and noxious gases.

(g) In special instances for the construction of sidetracks, haulageways, airways, or openings in shaft bottom or slope bottom layouts where the size and strength of pillars is important, the director may issue a permit approving greater distances. The permit shall specify the conditions under which such places may be driven.

(h) In all mines a system of bleeder openings on air courses, designed to provide positive movement of air through and/or around abandoned or caved areas, sufficient to prevent dangerous accumulation of gas in such areas, and to minimize the effect of variations in atmospheric pressure shall be made a part of pillar recovery plans projected after July 1, 1971.

(i) If a bleeder return is closed as a result of roof falls or water during pillar recovery operations, pillar operations may continue without reopening the bleeder return if at least 20,000 cubic feet of air per minute is delivered to the intake of the pillar line.

(j) No operator or mine foreman shall permit any person to work where he or she is unable to maintain the quantity and quality of the air current as heretofore required: *Provided*, That such provisions shall not prohibit the employment of men to make place of employment safe.

(k) The ventilation of any mine shall be so arranged by means of air locks, overcasts or undercasts, that the use of doors on passageways where men or equipment travel may be kept to a minimum. Where doors are used in a mine, they shall be erected in pairs so as to provide a ventilated air lock unless the doors are operated mechanically.

(l) A crosscut shall be provided at or near the face of each entry or room before such places are abandoned.

(m) Overcasts or undercasts shall be constructed of incombustible material and maintained in good condition.

(n) After January 1, 1987, all run through check curtains shall be substantially constructed of translucent material, except that where belting material has to be used because of high velocity, there shall be a window of translucent material at least 30 inches square or one-half the height of the coal seam, whichever is less.

(o) The MSHA-approved plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

§22A-2-4a. Use of belt air.

(a) *Definitions.* — For purposes of this section, “belt air” means the use of a belt conveyor entry as an intake air course to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed.

(b) Upon the effective date of the enactment of this section, belt air may not be used to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed: *Provided*, That if an alternative method of ventilation will at all times guarantee no less than the same measure of protection afforded the miners of an underground mine by the foregoing or if the application of the foregoing to an underground mine will result in a diminution of safety to the miners in the mine, the director may approve the interim use of belt air pursuant to the following: The MSHA-approved plan for use of belt air shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall contain all provisions of state mining law as set forth in state code or code of state rules.

~~(1) For those operators using belt air pursuant to a ventilation plan approved by the director in accordance with the provisions of section two of this article prior to the effective date of the~~

~~enactment of this section, the director shall cause an inspection to be made of the mine ventilation system and ventilation equipment. The director may allow the continued use of belt air in that mine if he or she determines that: (i) The use meets the minimum requirements of 30 CFR 75.350(b); and (ii) the use, as set forth in the ventilation plan and as inspected, will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.~~

~~(2) For those operators submitting on or after the effective date of the enactment of this section, a ventilation plan proposing the use of belt air to the director pursuant to section two of this article, the director shall immediately upon receipt of the plan give notice of the plan to the representative of the miners in that mine and cause any investigation to be made that the director considers appropriate: *Provided*, That the investigation shall include a review of any comments on the plan submitted by the representative of miners in the mine. Upon receiving the report of the investigation, the director shall make findings of fact and issue a written decision, incorporating in the decision his or her findings and an order approving or denying the use of belt air pursuant to the terms of the ventilation plan. To approve the use of belt air pursuant to a ventilation plan, the director shall, at a minimum, determine that: (i) The operator's proposed use of belt air meets the minimum requirements of 30 CFR 75.350(b); and (ii) approval of the proposed use of belt air will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.~~

~~(3) The interim use of belt air shall be accurately reflected in operator's plan of ventilation, as approved by the director in accordance with the provisions of section two of this article.~~

~~(c) Upon completion of the independent scientific and engineering review concerning the use of belt air and the composition and fire retardant properties of belt materials in underground coal mining by the technical study panel created~~

~~pursuant to the provisions of 30 U. S. C. §963 and the Secretary of the United States Department of Labor's corresponding report to Congress pursuant to the review, the Board of Coal Mine Health and Safety shall, within thirty days of the Secretary of Labor's report to Congress, provide the Governor with its recommendations, if any, for the enactment, repeal or amendment of any statute or rule which would enhance the safe ventilation of underground mines and the health and safety of miners: *Provided*, That at least sixty days after the Secretary of Labor's report to Congress, the Board of Coal Mine Health, Safety and Training shall promulgate emergency rules regulating the use of belt air in light of that report: *Provided, however*, That the provisions of subsections (a) and (b) of this section shall expire and no longer have any force and effect upon the filing of such emergency rules.~~

§22A-2-5. Unused and abandoned parts of mine.

(a) In any mine, all workings which are abandoned after July 1, 1971, shall be sealed or ventilated. If the workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the director and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind the seals. For the purpose of this section, working within a panel shall not be considered to be abandoned until the panel is abandoned.

(b) Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any working mine, unless permission is granted by the director with unanimous agreement of the technical and mine safety review committee. Air that has been used to ventilate seals shall not be used to ventilate any working place in any working mine. Air which has been used to ventilate an area from which the pillars have been removed shall not be used to ventilate any working place in a mine, except that the air, if it does not contain 0.25 volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent, are reopened, the director shall be notified.

(c) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, a professional engineer registered with the Board of Registration for Professional Engineers pursuant to §30-13-1 *et seq.* of this code shall certify the design of all new seals as meeting the criteria established by the director. Every seal design shall have the professional engineer's certificate and signature, in addition to his or her seal, in the following form:

"I the undersigned, do hereby certify that this seal design is, to the best of my knowledge, in accordance with all applicable requirements under state and federal law, rules and regulations.

_____ P.E."

(d) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the director shall approve the construction of all new seals in accordance with rules authorized in this section. The construction shall also be:

(1) Certified by the mine foreman-fire boss of the mine as being in accordance with the design certified by a professional engineer pursuant to 22A-2-5(c) of this code; and

(2) (A) Constructed of solid concrete blocks and in accordance with the other provisions of 30 CFR 75.335(a)(1); or

(B) Constructed in a manner that the director has approved as having the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1).

(e) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the operator shall inspect the physical condition of all seals and measure the atmosphere behind all seals in accordance with protocols developed by the Board of Coal Mine Health and Safety, pursuant to rules authorized in this section and consistent with a mine-specific atmospheric measurement plan submitted to and approved by the director. The atmospheric measurements shall

include, but not be limited to, the methane and oxygen concentrations and the barometric pressure. The atmospheric measurements also shall be recorded with ink or indelible pencil in a book kept for that purpose on the surface at a location designated by the operator. The protocols shall specify appropriate methods for inspecting the physical condition of seals, measuring the mine atmosphere in sealed workings, and inerting the mine atmosphere behind the seals, where appropriate.

(f) (1) In all mines containing workings sealed using seals constructed in accordance with the provisions of 30 CFR 75.335(a)(2) which are constructed: (A) Of cementitious foam blocks; or (B) with methods or materials that the Board of Coal Mine Health and Safety determines do not provide an adequate level of protection to miners, the operator shall, pursuant to a plan submitted to and approved by the director, remediate the seals by either enhancing the seals or constructing new seals in place of or immediately outby the seals. After being remediated, all seals must have the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1). The design, development, submission and implementation of the remediation plan is the responsibility of the operator of each mine. Pursuant to rules authorized in this section, the Board of Coal Mine Health and Safety shall specify appropriate methods of enhancing the seals.

(2) Notwithstanding any provision of this code to the contrary, if the director determines that any seal described in §22A-2-5(f)(1) of this code is incapable of being remediated in a safe and effective manner, the mine foreman-fire boss shall, at least once every 24 hours, inspect the physical condition of the seal and measure the atmosphere behind the seal. The daily inspections and measurements shall otherwise be performed in accordance with the protocols and atmospheric measurement plan established pursuant to §22A-2-5(e) of this code.

(g) Upon the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, second mining of lower coal on retreat, also known as bottom mining, shall not be permitted in workings that will be sealed unless an operator has first submitted and received approval by the director of a remediation plan that sets forth measures that will be

taken to mitigate the effects of remnant ramps and other conditions created by bottom mining on retreat which can increase the force of explosions originating in and emanating out of workings that have been bottom mined. The director shall require that certification in a manner similar to that set forth in §22A-2-5(c) of this code shall be obtained by the operator from a professional engineer and the mine foreman-fire boss for the plan design and plan implementation, respectively.

(h) No later than 60 days after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the Board of Coal Mine Health and Safety shall develop and promulgate rules pursuant to the provisions of §22A-6-4 of this code to implement and enforce the provisions of this section.

(i) Upon the issuance of mandatory health and safety standards relating to the sealing of abandoned areas in underground coal mines by the Secretary of the United States Department of Labor pursuant to 30 U. S. C. §811, as amended by section 10 of the federal Mine Improvement and New Emergency Response Act of 2006, the director, working in consultation with the Board of Coal Mine Health and Safety, shall, within 30 days, provide the Governor with his or her recommendations, if any, for the enactment, repeal, or amendment of any statute or rules which would enhance the safe sealing of abandoned mine workings and the health and safety of miners.

(j) The MSHA-approved plan for seals shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

ROOF – FACE – RIBS

§22A-2-25. Roof control programs and plans; refusal to work under unsupported roof.

(a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and

working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal mine and approved by the director shall be adopted and set out in printed form before new operations. The safety committee of the miners of each mine where such committee exists shall be afforded the opportunity to review and submit comments and recommendations to the director and operator concerning the development, modification, or revision of such roof control plans. The plan shall show the type of support and spacing approved by the director. Such plan shall be reviewed periodically, at least every six months by the director, taking into consideration any falls of roof or rib or inadequacy of support of roof or ribs. A copy of the plan shall be furnished to the director or his or her authorized representative and shall be available to the miners and their representatives. The MSHA-approved roof control plan shall serve as the state-approved plan: *Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.*

(b) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mine, as the director may prescribe, an ample supply of suitable materials of proper size with which to secure the roof thereof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. When overhangs or brows occur along rib lines they shall be promptly removed. All sections shall be maintained as near as possible on center. Except in the case of recovery work, supports knocked out shall be replaced promptly. Apprentice miners shall not be permitted to set temporary supports on a working section without the direct immediate supervision of a certified miner.

(c) The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof.

Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(d) The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(e) No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

(f) The immediate supervisor of each miner who will be engaged in any activity involving the securing of roof or rib during a shift shall, at the onset of any such shift, orally review those parts of the roof control plan relevant to the type of mining and roof control to be pursued by such miner.

(g) Any action taken against a miner due, in whole or in part, to his or her refusal to work under unsupported roof, where such work would constitute a violation of this section, is prohibited as an act of discrimination pursuant to §22A-1-22 of this code. Upon a finding of discrimination by the appeals board pursuant to §22A-1-22(b) of this code, the miner shall be awarded by the appeals board all reliefs available pursuant to §22A-1-22(b) and §22A-1-22(c) of this code.

§22A-2-26. Roof support; specific requirements.

(a) *Generally.* — The method of mining followed in any coal mine ~~shall~~ may not expose the miner to unusual dangers from roof falls, and the MSHA-approved plan shall serve as the state-approved plan: *Provided,* That the MSHA-approved plan shall

comply with all provisions of state mining law as set forth in this code or code of state rules.

(b) *Roadways, intersections, and arches.* — The width of roadways shall not exceed 16 feet unless additional support is added cross sectional. During the development of intersections, the roof between the tangents of the arches in the entry or room shall be supported with artificial roof supports prior to the development of such intersections. All areas where the arch is broken shall be considered as having unsupported roof and such roof should have artificial roof supports installed prior to any other work being performed in the area.

(c) *Examinations and corrections.* — Where miners are exposed to danger from falls of-roof, face and ribs, the operator shall examine and test the roof, face and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately. A probe or probes for methane detectors shall be provided on each working section other than longwall sections and sections mined solely with continuous miners with integral roof bolters.

(d) *Roof bolt recovery.* — Roof bolts shall not be recovered where complete extraction of pillars is attempted, where adjacent to clay veins or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

TRANSPORTATION

§22A-2-37. Haulage roads and equipment; shelter holes; prohibited practices; signals; inspection.

(a) Use of haulage roads and equipment along with signals and inspection shall meet standards established by the U. S. Mine Safety and Health Administration. The roadbed, rails, joints,

switches, frogs, and other elements of all haulage roads shall be constructed, installed, and maintained in a manner consistent with speed and type of haulage operations being conducted to ensure safe operation. Where transportation of personnel is exclusively by rail, track shall be maintained to within 1,500 feet of the nearest working face, except that when any section is fully developed and being prepared for retreating, then the track shall be maintained to within 1,500 feet of that retreat mining section if a rubber tired vehicle is readily available: *Provided*, That in any case where such track is maintained to within a distance of more than 500 feet and not more than 1,500 feet of the nearest working face, a self-propelled, rubber-tired vehicle capable of transporting an injured worker shall be readily available.

(b) Track switches, except room and entry development switches, shall be provided with properly installed throws, bridle bars and guard rails; switch throws and stands, where possible, shall be placed on the clearance side.

(c) Haulage roads on entries shall have a continuous, unobstructed clearance of at least 24 inches from the farthest projection of any moving equipment on the clearance side.

(d) On haulage roads where trolley lines are used, the clearance shall be on the side opposite the trolley lines.

(e) On the trolley wire or “tight” side, there shall be at least 12 inches of clearance from the farthest projection of any moving equipment.

(f) Warning lights or reflective signs or tapes shall be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(g) The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies, or other material: *Provided*, That not more than 24 inches need be kept free of such obstructions.

(h) Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors which in no event shall be less than 24 inches.

(i) Shelter holes shall be provided along haulage entries. Such shelter holes shall be spaced not more than 105 feet apart, except when variances are authorized by the director with unanimous agreement of the Mine Safety and Technical Review Committee. Shelter holes shall be on the side of the entry opposite the trolley wire except that shelter holes may be on the trolley wire and feeder wire side if the trolley wire and feeder wire are guarded in a manner approved by the director. The MSHA-approved plan shall serve as the state-approved plan governing the use of shelters: *Provided*, That the MSHA-approved plan shall comply with all other provisions of state mining law as set forth in state code or code of state rules.

(j) Shelter holes shall be at least five feet in depth, not more than four feet in width and as high as the traveling space, unless the director with unanimous agreement of the Mine Safety and Technical Review Committee grants a waiver. Room necks and crosscuts may be used as shelter-holes even though their width exceeds four feet.

(k) Shelter holes shall be kept clear of refuse and other obstructions.

(l) Shelter holes shall be provided at switch throws and manually operated permanent doors.

(m) No steam locomotive shall be used in mines where miners are actually employed in the extraction of coal, but this shall not prevent operation of a steam locomotive through any tunnel haulway or part of a mine that is not in actual operation and producing coal.

(n) Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any other compound shall not be used in a coal mine, unless the equipment is diesel-powered equipment approved, operated and maintained as provided in §22A-2-1 *et seq.* of this code.

(o) Locomotives, personnel carriers, mine cars, supply cars, shuttle cars, and all other haulage equipment shall be maintained in

a safe operating condition. Each locomotive, personnel carrier, barrier tractor, and other related equipment shall be equipped with a suitable lifting jack and handle. An audible warning device and headlights shall be provided on each locomotive and each shuttle car. All other mobile equipment, using the face areas of the mine, shall be provided with a conspicuous light or other approved device so as to reduce the possibility of collision.

(p) No persons other than those necessary to operate a trip or car shall ride on any loaded car or on the outside of any car. Where pusher locomotives are not used, the locomotive operator shall have an assistant to assist him or her in his or her duties.

(q) The pushing of trips, except for switching purposes, is prohibited on main haulage roads: *Provided*, That nothing herein shall prohibit the use of a pusher locomotive to assist the locomotive pulling a trip. Motormen and trip riders shall use care in handling locomotives and cars. It shall be their duty to see that there is a conspicuous light on the front and rear of each trip or train of cars when in motion: *Provided, however*, That trip lights need not be used on cars being shifted to and from loading machines, or on cars being handled at loading heads during gathering operations at working faces. No person, other than the motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided. An empty car or cars shall be used to provide a safe distance between the locomotive and the material car when rail, pipe, or long timbers are being hauled. A safe clearance shall be maintained between the end car or trips placed on side tracks and moving traffic. On haulage roads the clearance point shall be marked with an approved device.

(r) No motorman, trip rider, or brakeman shall get on or off cars, trips, or locomotives while they are in motion, except that a trip rider or brakeman may get on or off the rear end of a slowly moving trip or the stirrup of a slowly moving locomotive to throw a switch, align a derail, or open or close a door.

(s) Flying or running switches and riding on the front bumper of a car or locomotive are prohibited. Back poling shall be

prohibited except with precaution to the nearest turning point (not over 80 feet), or when going up extremely steep grades and then only at slow speed. The operator of a shuttle car shall face in the direction of travel except during the loading operation when he or she shall face the loading machine.

(t) (1) A system of signals, methods, or devices shall be used to provide protection for trips, locomotives, and other equipment coming out onto tracks used by other equipment.

(2) In any coal mine where more than 350 tons of coal are produced on any shift in each 24-hour period, a dispatcher shall be on duty when there are movements of track equipment underground, including time when there is no production of coal. Such traffic shall move only at the direction of the dispatcher.

(3) The dispatcher's only duty shall be to direct traffic: *Provided*, That the dispatcher's duties may also include those of the responsible person required by §22A-2-42 of this code: *Provided, however*, That the dispatcher may perform other duties which do not interfere with his or her dispatching responsibilities and do not require him or her to leave the dispatcher's station except as approved by the Mine Safety and Technical Review Committee.

(4) Any dispatcher's station shall be on the surface.

(5) All self-propelled track equipment shall be equipped with two-way communications.

(u) Motormen shall inspect locomotives, and report any mechanical defects found to the proper supervisor before a locomotive is put in operation.

(v) A locomotive following another trip shall maintain a distance of at least 300 feet from the rear end of the trip ahead, unless such locomotive is coupled to the trip ahead.

(w) Positive stop blocks or derails shall be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines. Positive-acting stop blocks or derails shall be used where

necessary to protect persons from danger of runaway haulage equipment.

(x) Shuttle cars shall not be altered by the addition of sideboards so as to inhibit the view of the operator: *Provided*, That the addition of or use of sideboards on shuttle cars shall be permitted if the shuttle car is equipped with cameras: *Provided, however*, That shuttle cars with sideboards as manufactured by an equipment manufacturer shall be permitted to be used without the use of cameras if permitted by the director.

(y) Mining equipment shall not be parked within 15 feet of a check curtain or fly curtain.

(z) All self-propelled track haulage equipment shall be equipped with an emergency stop switch, self-centering valves, or other devices designed to de-energize the traction motor circuit in the event of an emergency. All track-mounted trolley equipment shall be equipped with trolley pole swing limiters or other means approved by the Mine Safety and Technical Review Committee to restrict movement of the trolley pole when it is disengaged from the trolley wire. Battery powered mobile equipment shall have the operating controls clearly marked to distinguish the forward and reverse positions.

§22A-2-55. Protective equipment and clothing.

(a) Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles or other eye hazards.

(b) Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

(c) Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntleted cuffs shall not be worn around moving equipment.

(d) Safety hats and safety-toed shoes shall be worn by all persons while in or around a mine: *Provided*, That metatarsal guards are not required to be worn by persons when working in those areas of underground mine workings which average less than 48 inches in height as measured from the floor to the roof of the underground mine workings.

(e) Approved eye protection shall be worn by all persons while being transported in open-type man trips.

(f) (1) A self-contained self-rescue device approved by the director shall be worn by each person underground or kept within his or her immediate reach and the device shall be provided by the operator. The self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. Each operator shall train each miner in the use of the device and refresher training courses for all underground employees shall be held once each quarter. Quarters shall be based on a calendar year.

(2) In addition to the requirements of §22A-2-55(f)(1) of this code, the operator shall also provide caches of additional self-contained self-rescue devices throughout the mine in accordance with a plan approved by the director. Each additional self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. The total number of additional self-contained self-rescue devices, the total number of storage caches and the placement of each cache throughout the mine shall be established by rule pursuant to §22A-2-55(i) of this code. A luminescent sign with the words “SELF-CONTAINED SELF-RESCUER” or “SELF-CONTAINED SELF-RESCUERS” shall be conspicuously posted at each cache and luminescent direction signs shall be posted leading to each cache. Lifeline cords or other similar device, with reflective material at 25-foot intervals, shall be attached to each cache from the last open crosscut to the surface. The operator shall conduct weekly inspections of each cache and each lifeline cord or other similar device to ensure operability.

(3) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any self-contained self-rescue device or lifeline cord from the mine

or mine site with the intent to permanently deprive the operator of the device or lifeline cord or knowingly tampers with or attempts to tamper with the device or lifeline cord ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

(g) The MSHA-approved emergency response plan (ERP) shall serve as the state-approved plan governing the storage of self-contained self-rescuers (SCSR). At a minimum, three one-hour SCSRs shall be available for everyone reasonably likely to be on the working section at any given time. The director may issue a special assessment pursuant to §22A-1-21 of this code for failure to comply with this subsection.

~~(g)~~ (h) (1) A wireless emergency communication device approved by the director and provided by the operator shall be worn by each person underground: *Provided*, That if a miner's wireless emergency communications device shall malfunction or cease to operate then such miner shall be assigned to be in sight or sound of a certified miner until such time an operating device shall be delivered. The wireless emergency communication device shall, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

(2) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless emergency communication device or related equipment from the mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for

not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

~~(h)~~ (i) (1) A wireless tracking device approved by the director and provided by the operator shall be worn by each person underground. In the event of an accident or other emergency, the tracking device shall, at a minimum, be capable of providing real-time monitoring of the physical location of each person underground: *Provided*, That no person shall discharge or discriminate against any miner based on information gathered by a wireless tracking device during nonemergency monitoring. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

(2) The MSHA-approved ERP shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all other provisions of state mining law as set forth in state code or the code of state rules.

(3) ~~(2)~~ Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless tracking device or related equipment, approved by the director, from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

~~(i)~~ (j) The director ~~may~~ shall promulgate emergency and legislative rules to implement and enforce this section pursuant to the provisions of §29A-3-1 *et seq.* of this code.

**ARTICLE 2A. USE OF DIESEL-POWERED EQUIPMENT
IN UNDERGROUND COAL MINES.**

PART X. EXISTING RULES TO BE REVISED.

§22A-2A-1001. Existing state rules to be revised.

Unless otherwise revised, By by August 31, ~~2017~~ 2018, the director shall revise state rules promulgated pursuant to the authority of this chapter as follows:

(1) To reflect the abolishment of the West Virginia Diesel Equipment Commission and transfer of duties and responsibilities to the director, pursuant to §22A-2A-301 of this code;

(2) To reflect that a mine operator shall be permitted to replace a filter or catalyst of the same make and model without contacting the Office of Miners' Health, Safety, and Training;

(3) To reflect that ASE certified diesel mechanics shall make repairs and adjustments to diesel fuel injection systems, engine timing, or exhaust emissions control and conditioning systems;

(4) To permit a mine operator to dispose of used intake air filters, exhaust diesel particulate matter filters, and engine oil filters in their original containers or other suitable enclosed containers and to remove them from the underground mine to the surface no less than once in a 24-hour period;

(5) To require that records of emissions tests, 200-hour maintenance tests, and repairs shall be countersigned once each week by the certified mine electrician or mine foreman, that scheduled maintenance and an independent analysis of engine oil occur at 200 hours of engine operation, and that diagnostic testing of engine operation occur at 200 hours;

(6) To remove the requirement that a portable carbon monoxide (CO) sampling device be installed into the untreated exhaust gas coupling provided in the operator's cab;

(7) To modify the time and duration for which the CO sampler must be started to measure and record CO levels from every minute for five minutes to every 30 seconds for 90 seconds;

(8) To modify the alternative condition by which equipment fails under 196 C. S. R. §1-21, to omit the reference to the average CO reading for untreated exhaust gas is greater than twice the baseline; ~~and~~

(9) To remove the requirement for eight hours of annual diesel equipment operator refresher training separate from that required by MSHA regulations; and

(10) To permit the use of diesel generators in underground mines so long as the generator is vented directly to the return and at least one person is present within sight and sound of the generator: *Provided*, That all current state rules and statutes relating to the use of diesel-powered equipment and electricity generation remain in force.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 626, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 626) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 631, Relating generally to one-call system.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 3005, Relating to regulation of unmanned aircraft systems.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4015, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4368, Relating to voluntary assignments of wages by state employees who have been overpaid.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 4434, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4473, Relating to use of state funds for advertising to promote a public official or government office.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, of

Eng. Com. Sub. for House Bill 4478, Authorizing public schools to distribute excess food to students.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4502, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. Com. Sub. for House Bill 4509, Relating to the establishment of substance abuse treatment facilities.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 11— Requesting the Division of Highways to name the bridge number 20-61-13.51 (20A817), locally known as New Chesapeake Bridge, carrying WV Route 61 over Fields Creek in Kanawha County, the “Charleston Police Capt. Jerry D. Hill Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 21—Requesting the Division of Highways name bridge number 03-85/24-0.01 (03A167), on County Route 85, locally known as Clinton Camp Road Bridge, carrying CR 85/24 over Pond Fork in Boone County, the “U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 39—Requesting the Joint Committee on Government and Finance to study the sustainability of the state’s current system of higher education and how the state can better support the public institutions of higher education.

Referred to the Committee on Education; and then to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 40—Requesting the Division of Highways to name bridge number 41-1-12.89 (41A006), locally known as “Artie Bridge”, carrying County Route 1 over Clear Fork in Raleigh County, the “U. S. Air Force SMSgt Billie E. ‘Bunky’ Hodge Memorial Bridge”.

At the request of Senator Boso, and by unanimous consent, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 44—Requesting the Division of Highways to name bridge number 23-7-3.44 (23A374), locally known as New Gore Fork Bridge, carrying County Route 7 over Gore Fork Creek in Logan County, the “U. S. Army PFC Clayton Collins Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 53—Requesting the Division of Highways to name bridge number 25-79-140.37 NB & SB (25A147, 25A148), locally known as Little Creek Road Overpass, carrying Interstate 79 over County Route 76 in Marion County, the “Pastor Robert L. “Bob” Barker Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 54—Requesting the Division of Highways to name County Route 5/5, known as Jordan Creek Road, from its intersection with U.S. Route 119, to its intersection with County Route 5/3, known as Wills Creek Road, in Kanawha County, the “U. S. Army SPC Thurman “Duwayne” Young Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 56—Requesting the Joint Committee on Government and Finance study the Public Employees Insurance Agency and potential alternative methods to control healthcare costs.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 67—Requesting the Division of Highways to name the road from the beginning of Sand Creek Road on County Route 10/15 at the bend of the Guyandotte River and State Route 10 running one-half mile on Sand Creek Road in Lincoln County, the “U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 71—Requesting that the Division of Highways name bridge number 50-37-22.70 (50A076) (38.16807, -82.37858), locally known as East Lynn Bridge, carrying WV 37 over the East Fork of Twelvepole Creek in Wayne County, the “U. S. Army CPL Lee Roy Young Memorial Bridge.”

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 76—Requesting the Division of Highways to name bridge number 20-77/1-0.70 (20A237), locally known as Lower Fields Creek Bridge, carrying County Route 71/1 over Fields Creek in Kanawha County, the “U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 85—Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway, extending Interstate Highway 99 from its present terminus at Bedford, Pennsylvania to Covington, Virginia.

Referred to the Committee on Transportation and Infrastructure.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 93—Requesting the Joint Committee on Government and Finance study exempting state employees from the payment of state income tax.

Referred to the Committee on Finance; and then to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 94—Requesting the Joint Committee on Government and Finance to conduct a study comparing West Virginia’s asbestos rules with those in other states and the federal government and determine whether simplified and less restrictive rules could also be effective.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 99—Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 101—Requesting the Governor’s Task Force on Public Employee Insurance Agency Stability to review means and methods of including medical facilities in those out-of-state counties that border West Virginia as part of the in-network coverage for PEIA members.

Referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 102—Requesting the Division of Highways name bridge number 20-60-36.23 (20A160), locally

known as US 60 Cedar Grove Overpass 3565 Bridge, carrying US 60 over County Route 81, Kanawha County, the “U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge”.

Referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

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 4002, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Trump, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4002) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2. APPORTIONMENT OF REPRESENTATION.**§1-2-2c. Redistricting.**

Upon the reapportionment and redistricting of the Legislature following the United States Census in 2020 and in each subsequent reapportionment and redistricting, the House of Delegates shall be composed of one hundred single member districts, with apportionment to meet constitutional standards.

The bill (Eng. Com. Sub. for H. B. 4002), as amended, was then ordered to third reading.

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. House Bill 4486, Relating to persons required to obtain a license to engage in the business of currency exchange.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Trump, unanimous consent being granted, the bill (Eng. H. B. 4486) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a second time, and ordered to third reading.

The Senate proceeded to the sixth order of business.

Senators Plymale, Boso, and Cline offered the following resolution:

Senate Concurrent Resolution 54—Requesting the Joint Committee on Government and Finance study the effect of new vehicle and load configurations and vehicles with increased gross weights and sizes on roads and related infrastructure in West Virginia.

Whereas, The increased capacity and ability of modern vehicles to transport commodities and products, together with increased economic pressures to reduce industry transportation costs and increased environmental pressures to lower carbon dioxide emissions, create economic incentives to increase the loads vehicles may transport; and

Whereas, Increasing the types of vehicles, weight of vehicles, and types of loading and trucking configurations permitted on roads would increase economic development opportunities in West Virginia; and

Whereas, Excessive weights of vehicles can result in the deterioration of roads and bridges, creating significant costs in lost road and bridge use and life; and

Whereas, Certain vehicle types, vehicle configurations, load configurations, and other factors can alleviate or avoid damaging effect on infrastructure from increased vehicle and load weights; and

Whereas, The West Virginia Department of Transportation and Division of Highways, the West Virginia Department of Commerce, private industry, including manufacturers of commodities or products, and the engineering community, including the College of Information Technology and Engineering at Marshall University and the Statler College of Engineering and Mineral Resources at West Virginia University, should be encouraged to cooperate and to study the effect various trucking configurations and weights have on West Virginia's road system; and

Whereas, Such study should include an analysis of which vehicle and load configurations and weights may be utilized with

minimal consequence to West Virginia's infrastructure while permitting industry to transport commodities and products in the most economical ways; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the effect of new vehicle and load configurations and vehicles with increased gross weights and sizes on roads and related infrastructure in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the West Virginia Department of Transportation and Division of Highways, private industry, the West Virginia Department of Commerce, and West Virginia schools with engineering programs; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

At the request of Senator Plymale, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senators Plymale, Boso, and Cline offered the following resolution:

Senate Concurrent Resolution 55—Urging the Congress of the United States to pass a law permitting West Virginia to increase the weight of vehicles permitted to operate on interstate highways so that West Virginia may implement a pilot program to study various vehicle configurations and weights.

Whereas, Federal law currently imposes vehicle weight limitations on vehicles that operate on the National System of Interstate and Defense Highways, The Dwight D. Eisenhower System of Interstate and Defense Highways, hereafter “Interstate Highways”; and

Whereas, The maximum gross weight typically allowed by any State for vehicles using the Interstate Highways is twenty thousand pounds carried on one axle, a tandem axle weight of thirty-four thousand pounds, and an overall maximum gross weight by formula; and

Whereas, Federal law also contains many exceptions to such weight limits; and

Whereas, The increased capacity and ability of modern vehicles to transport commodities and products, together with increased economic pressures to reduce industry transportation costs and increased environmental pressures to lower carbon dioxide emissions, create economic incentives to increase the loads vehicles may transport; and

Whereas, Increasing the types of vehicles, weight of vehicles, and types of loading and trucking configurations permitted on roads would increase economic efficiencies; and

Whereas, Excessive weights of vehicles can result in the deterioration of roads and bridges, creating significant costs in lost road and bridge use and life; and

Whereas, Certain vehicle types, vehicle configurations, load configurations, and other factors can alleviate or avoid damaging effect on infrastructure from increased vehicle and load weights; and

Whereas, The West Virginia Legislature is directing the West Virginia Department of Transportation and Division of Highways, the West Virginia Department of Commerce, private industry, including manufacturers of commodities or products, and the engineering community, including the College of Information Technology and Engineering at Marshall University and the Statler College of Engineering and Mineral Resources at West Virginia University, to cooperate and study the effect various trucking configurations and weights have on West Virginia's entire road system, including Interstate Highways; and

Whereas, Such study would include an analysis of which vehicle and load configurations and weights may be utilized with minimal consequence to West Virginia's infrastructure, including Interstate Highways, while permitting industry to transport commodities and products in the most economical ways; and

Whereas, In order to complete such a study and pilot program, West Virginia needs permission from the Congress of the United States to increase the weight of vehicles permitted to operate on Interstate Highways; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature urges the Congress of the United States to pass legislation permitting West Virginia to increase the weight of vehicles permitted to operate on Interstate Highways so that West Virginia may implement a pilot program to study various vehicle configurations and weights; and, be it

Further Resolved, That the Legislature urges the President of the United States to sign such legislation; and, be it

Further Resolved, That the Clerk of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the United States Senate, and to each Senator and Representative from West Virginia in the Congress of the United States.

At the request of Senator Plymale, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Senators Stollings, Beach, and Plymale offered the following resolution:

Senate Concurrent Resolution 56—Requesting the Division of Highways rename bridge number 23-10-9.00, currently known as the PFC Franklin L. Conn Memorial Bridge, carrying State Route 10 near the town of Man in Logan County, the “PFC Franklin L. Conn and SGM Bill Jeffrey Memorial Bridge”.

Whereas, Bill Edward Jeffrey was born to Elmer and Rosalyn Jeffrey on May 5, 1945, in Logan, West Virginia; and

Whereas, Bill Edward Jeffrey was inducted into the United States Army on November 6, 1959, and retired on the effective date of August 31, 1988, after rising to the rank of Sergeant Major; and

Whereas, Sergeant Major Jeffrey entered the United States Army Special Operations Command as the G4 Chief of Logistics serving their mission around the world for 13 years. He also served two tours of duty in Vietnam; and

Whereas, Sergeant Major Jeffrey was awarded the Legion of Merit with one bronze oak leaf cluster, Bronze Star Medal with letter “V” device, Meritorious Service Medal with one bronze oak leaf cluster, Army Commendation Medal with one bronze oak leaf cluster, Good Conduct Medal, 8th award, National Defense Service Medal, the Vietnam Service Medal; Army Service Ribbon, Overseas Service Ribbon with numeral four, Republic of Vietnam Campaign Ribbon with Device (1960), and Marksman Badge with Carbine Bar with Rifle Bar; and

Whereas, Sergeant Major Jeffrey also had many outside interests and was a world-famous softball pitcher, coach, and organizer. He had a sports stadium named after him in Amsterdam, Holland; and

Whereas, Sergeant Major Jeffrey passed away on April 4, 2015, and was survived by his wife, Robin Jeffrey, and a multitude of family and friends who will never forget him; and

Whereas, Sergeant Major Jeffrey was also a devoted friend of fellow serviceman, Private First Class Franklin L. Conn, who was killed in action while these friends were serving in the Army in Vietnam; and

Whereas, The West Virginia Legislature has, in its 2010 Regular Session, already passed HCR 24 requesting the Division of Highways to name a bridge in Logan County in honor of PFC Conn; and

Whereas, The community of Man, West Virginia, and the families of these valiant men have all requested that these two friends be honored jointly; and

Whereas, It is fitting that an enduring memorial be established to commemorate Private First Class Franklin L. Conn and Sergeant Major Bill Jeffrey, their service to our state and country, and their strong friendship; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to rename bridge number 23-10-9.00, currently known as the PFC Franklin L. Conn Memorial Bridge, carrying State Route 10 near the town of Man in Logan County, the “PFC Franklin L. Conn and SGM Bill Jeffrey Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “PFC Franklin L. Conn and SGM Bill Jeffrey Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 57 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on the Judiciary study the modification of criminal proceedings as it pertains to bail requirements and the potential creation of the West Virginia Sentencing Commission.

Whereas, The national government and several states have created criminal sentencing commissions; and

Whereas, Potential powers and duties of a sentencing commission need to be more thoroughly explored; and

Whereas, Bail requirements and punishments for crimes need to be more consistent across the state; and

Whereas, Adjusting bail requirements could prove to be beneficial to West Virginia's criminal justice system; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on the Judiciary is requested to study the modification of criminal proceedings as it pertains to bail requirements and the potential creation of the West Virginia Sentencing Commission; and, be it

Further Resolved, That the potential powers and duties of such a commission should be explored thoroughly during this endeavor.

The study should examine sentencing commissions established in other states, as well as the national sentencing commission, in order to replicate such measures. Additionally, the study should investigate potential benefits and effects of modifying bail requirements so that a court or magistrate shall release a person charged with a misdemeanor offense on his or her own recognizance unless that person is charged with a misdemeanor offense of actual violence or threat of violence against a person, a misdemeanor offense where the victim was a minor, a misdemeanor offense involving the use of a deadly weapon, a misdemeanor offense of the Uniform Controlled Substances Act, or a serious misdemeanor driving offense; and, be it

Further Resolved, That the Joint Committee on the Judiciary enlist the assistance of the Governor's Committee on Crime, Delinquency and Correction in conducting the study; and, be it

Further Resolved, That the Joint Committee on the Judiciary report to the regular session of the Legislature, 2019, on its findings, conclusions, and other recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on the Judiciary.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 57) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 58 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study options for solving the crisis presented by the abandonment of large horses on private lands in southern West Virginia.

Whereas, In West Virginia and surrounding states, many thousands of horses have been turned out onto former and active mine sites and other areas; and

Whereas, Many of these horses die or come near death during the winter due to poor food sources and are denied basic feeding, farrier care, or veterinary care; and

Whereas, Many of these horses go to the overseas meat market when locals round them up and take them to auctions; and

Whereas, Many of these horses are killed or injured via gunshots and on the roadways; and

Whereas, Many of these horses continue to breed and inbreed year after year; and

Whereas, The presence of these abandoned horses adversely impacts natural resources and processes by threatening plants and species, changing the plant community composition, reducing biodiversity, causing soil compaction, and interrupting native wildlife ecology; and

Whereas, The United States Park Service had considerable success in managing the feral horse population on Assateague Island in ways that may be instructive for efforts to do the same in West Virginia; and

Whereas, It would benefit the horses, the environment, and the local residents to explore the possibility of developing a program to manage the abandoned horses; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study options for solving the crisis presented by the abandonment of large horses on private lands in southern West Virginia; and, be it

Further Resolved, That the study include an analysis of possible legislative changes to facilitate cooperation with land and mine owners, such as eliminating administrative hurdles to accessing and obtaining abandoned livestock, and providing legal protection to persons accessing and/or removing abandoned horses; and, be it

Further Resolved, That the study include methods to safely round up nonferal, adoptable mares and foals, geld colts, and stallions, and euthanize severely injured or dangerous feral horses with the aid of voluntary, licensed veterinarians and veterinary students; and, be it

Further Resolved, That the study include an analysis of the advisability of imposing severe fines on persons abandoning horses on reclaimed or active mine sites or falsely claiming ownership of horses that have been abandoned on such sites; and, be it

Further Resolved, That the study analyze the feasibility of developing a program to devise and implement strategies for management of the abandoned horse population with goals including, but not limited to: maintaining genetic diversity; ensuring food and space availability; protecting reproductive capacity; reducing the negative impact of horses on key species, communities, and natural processes; educating the general public regarding the presence of the horses and their ecological impact; and exploring the possibility of providing a reasonable opportunity for visitors to view horses safely, and the potential for developing such opportunities for tourism purposes; and, be it

Further Resolved, That input shall be sought from appropriate state, local, and private agencies and organizations, including the Division of Natural Resources, the Department of Agriculture, and the Division of Tourism; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and other recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 58) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 59 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study possible methods to enhance forest management on state lands.

Whereas, Proper forest management planning of state lands provides a means of allowing the state to practice good stewardship of its property and what the state can realize from that property in economic, environmental, and recreational terms; and

Whereas, Proper forest management planning provides a means of identifying what can be done to enhance and protect the values and aspects of state lands that are most important to the state and its citizens; and

Whereas, Proper forest management planning helps ensure that state lands and resources will be in good condition for future generations; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study possible methods to enhance forest management on state lands; and, be it

Further Resolved, That the study include: A description of the state lands to be managed; a specific list of goals or objectives for management of those lands, including, but not limited to, improving and maintaining forest health, increasing wildlife diversity, and expanding recreational areas; and a description of activities to be performed in those lands to realize the goals and objectives identified; and, be it

Further Resolved, That input shall be sought from appropriate state, local, and private agencies and organizations, including the Division of Natural Resources and the Division of Forestry; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and other recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report, and draft necessary legislation be paid from

legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 59) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 60 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance to study requiring the Division of Natural Resources and other state agencies to use nonemployee workforce to perform certain improvements related to the conservation and development of natural resources in rural lands owned by state and local governments.

Whereas, Many unemployed West Virginians are willing and able to perform manual labor and have a desire to do so; and

Whereas, Such West Virginians could benefit from a program that provided shelter, clothing, and food, together with a small stipend; and

Whereas, Participation in such a program could lead to improved physical condition, heightened morale, and increased employability for participants therein; and

Whereas, Such a program could also lead to a greater public awareness and appreciation of the outdoors and the state's natural resources, and the continued need for a carefully planned, comprehensive state program for the protection and development of natural resources; and

Whereas, Such a program could be of considerable benefit in planting trees, constructing and/or maintaining trails, lodges, and related facilities, as well as upgrading state parks and public roadways in remote areas; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby directed to study requiring the Division of Natural Resources and other state agencies to use nonemployee workforce to perform certain improvements related to the conservation and development of natural resources in rural lands owned by state and local governments; and, be it

Further Resolved, That Joint Committee on Government and Finance study the feasibility of developing a program whereby food, shelter, and a stipend could be provided to West Virginia citizens performing certain improvements related to the conservation and development of natural resources in rural lands owned by state and local governments, and requiring the Division of Natural Resources, and other state agencies as appropriate, to utilize participation in such programs when making such improvements; and, be it

Further Resolved, That the study include potential methods and sources to fund such program; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with any drafts of any legislation necessary to effectuate its recommendation; and, be it

Further Resolved, That the expenses necessary to conduct a study, prepare a report, and to draft necessary legislation be paid

for from legislative appropriation to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolution (S. C. R. 60) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 61 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study developing plans reclaiming solid waste landfills.

Whereas, Many new and innovative technologies and products exist that meet state and federal performance standards; and

Whereas, Landfill reclamation is a relatively new approach used to expand solid waste landfill capacity and avoid the high cost of acquiring additional land; and

Whereas, Reclamation costs are often offset by the sale or use of recovered materials, such as recyclables, soil, and waste, which can be burned as fuel; and

Whereas, Other important benefits may include avoided liability through site remediation, reductions in closure costs, and reclamation of land for other uses; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study developing plans reclaiming solid waste landfills; and, be it

Further Resolved, That the study include an analysis of the potential benefits and drawbacks to landfill reclamation, including, but not limited to, preventing and/or containing possible gas releases; safely dealing with unearthed hazardous materials; conducting site characterization studies; assessing potential economic benefits; investigating regulatory requirements; and establishing a preliminary worker health and safety plan; and, be it

Further Resolved, That input shall be sought from appropriate state, local, and private agencies and organizations, including the West Virginia Department of Environmental Protection; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations; and, be it

Further Resolved, That the expenses necessary to conduct study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 61) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 62 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the potential economic benefits of rock-climbing tourism throughout the State of West Virginia.

Whereas, West Virginia contains numerous world-class destinations for the sport of rock climbing, including, among other destinations, Summersville Lake, the New River Gorge, and Seneca Rocks; and

Whereas, Professional and recreational athletes travel to West Virginia each year from many other states and countries solely to participate in rock climbing; and

Whereas, A recent study published in the Journal of Appalachian Studies discovered that rock climbers who travel to the Red River Gorge in Kentucky, which is located within a two-hour drive of the West Virginia border, spend \$3.8 million annually in that region, mostly on local businesses; and

Whereas, Measures to facilitate and preserve athletes' access to rock-climbing destinations in the state could lead to the creation of jobs and help stimulate local economies through tourism, both by bringing out-of-state athletes into West Virginia and by increasing national awareness of the state's unique geological formations; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the potential economic benefits of efforts to promote rock-climbing tourism throughout the State of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of the Commissioner of Tourism in conducting the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the resolution (S. C. R. 62) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 63 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the development of an adopt-a-waterway program.

Whereas, Many states and municipalities have enjoyed considerable success in developing and maintaining recreational waterways by creating adopt-a-waterway programs; and

Whereas, These programs allow local businesses, civil and professional organizations, environmental groups, academic institutions, neighborhood groups, and other community-minded organizations to formally adopt a waterway for the purpose of keeping the waterway clean, well-maintained, and marked by signage; and

Whereas, Creating a one-stop hub, such as a website, whereby the necessary forms and information for forming an adopt-a-waterway organization are all accessible together in one location has proven to be a fast, efficient, and effective way to enable and encourage formation of such groups; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the development of an adopt-a-waterway program; and, be it

Further Resolved, That the topics of the study include, but not be limited to, an investigation of: Using public parking lots for ingress and egress when available, such as public school parking lots during nonschool hours, post offices during nonbusiness hours, and other publicly funded parking areas; inviting businesses to allow waterway trail access from their property in order to increase business and provide goods and services to those traveling the waterway; using Department of Highways rights-of-way at bridges and other locations that can allow safe ingress and egress; organizing meetings of volunteers; and breaking waterways into segments assigned to individual volunteer groups; and, be it

Further Resolved, That input shall be sought from appropriate state, local, and private entities, including, but not limited to, the Department of Environmental Protection, the Division of Highways, the Division of Natural Resources, the and the Division of Tourism; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 63) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 53, US Army SGT Harold Scott White Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

House Concurrent Resolution 19, World Moyamoya Awareness Day.

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.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Rucker regarding the adoption of House Concurrent Resolution 19 were ordered printed in the Appendix to the Journal.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 152, Budget Bill.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 152 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 152) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 152) 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 633, Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 633) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 633) 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 634, Adding, increasing, and decreasing appropriations from General Revenue to DHHR.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 634) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 634) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2028, Relating to the venue for suits and other actions against the state.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2028) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4214, Increasing penalties for unlawfully possessing or digging ginseng.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4214) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4214—A Bill to amend and reenact §19-1A-3a of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3-35 of said code, all relating to increasing penalties for unlawfully possessing or digging ginseng; requiring ginseng dealers to maintain a photocopy of a valid identification card of all diggers, growers, and dealers involved in a ginseng transaction; and requiring written consent by the landowner to enter the lands of another to dig or prospect for ginseng.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4276, Allowing magistrates to grant work release privileges.

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, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Baldwin and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4276) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4336, Updating the schedule of controlled substances.

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, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Baldwin and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4336) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4336—A Bill to amend and reenact §60A-2-204, §60A-2-206, §60A-2-210, and §60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to updating schedules of controlled substances; reorganizing each schedule by removing numbering and lettering for subparts; by providing that the drugs listed in each schedule include not just the drug's chemical substance but also any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the such compounds are possible within the chemical designation; and by adding specific chemical compounds to three of the schedules.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4376, Expiring funds to the balance of the Department of Health and Human Resources.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4376) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4376) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 4379, Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4379) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4379) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4401, Relating to the registration of business.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4401 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4401) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4401—A Bill to amend and reenact §21-3-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §21-3C-11; to amend and reenact §21-3D-8; to amend and reenact §21-5-5c; to amend and reenact §21-9-9; to amend and reenact §21-10-4; to amend and reenact §21-11-17; to amend and reenact §21-14-9; to amend and reenact §21-15-7; to amend and reenact §21-16-10; to amend and reenact §47-1-8, §47-1-20, §47-1-21 and §47-1-22; and to amend and reenact §47-1A-14, all relating to the collection and use of fees by the Commissioner of the Division of Labor; authorizing commissioner to utilize certain excess funds to meet the division's funding obligations through June 30, 2019; eliminating authority to use certain excess funds after June 30, 2019; eliminating authority to charge annual registration fee for service persons and service agencies; eliminating authority to charge annual device registration fee; and eliminating certain rule-making authority.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4401) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4453, Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4453) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 4529, Relating to oath by municipal official certifying list of delinquent business and occupation taxes.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4529) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4571, Relating to the final day of filing announcements of candidates for a political office.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4571) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4571—A Bill to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to the filing of certificates of announcement of candidacy for a political office; requiring that the office of the Secretary of State be open from 9:00 a.m. until 11:59 p.m. on the last day of the period during which a certificate of announcement may be filed; and requiring that the offices of the county clerks of each county be open from 9:00 a.m. until 12:00 p.m. on the last day of the period during which a certificate of announcement may be filed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4618, Relating to the authority of the Division of Protective Services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4618 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4618) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4618—A Bill to amend and reenact §61-6-1, §61-6-1a, §61-6-3, §61-6-4, and §61-6-5 of the Code of West Virginia, 1931, as amended, all relating to the authority of the Division of Protective Services to compel dispersal of a riot or unlawful assemblage; to the authority of the Division of Protective Services to control riots and unlawful assemblages; to include officers of the Division of Protective Services among those officers on whom the penalty for failure to exercise power at riots

and unlawful assemblages may be imposed; allowing Division of Protective Services officers to summon persons to suppress unlawful assemblages; to hold harmless Division of Protective Services officers from liability for the death of persons in riots and unlawful assemblages; correcting references to the State Police; removing language making all persons unlawfully assembled criminally liable for deaths of persons quelling unlawful assembly or riot; and to make technical corrections.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4627, Relating to providing a limitation on the eminent domain authority of a municipal park board.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4627 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4627) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Ferns, and by unanimous consent, Senator Ferns addressed the Senate regarding today being the

fiftieth birthday of the senator from Marshall and on behalf of the Senate extended felicitations and good wishes to Senator Maroney, with Senator Ferns leading the members in singing “Happy Birthday”.

On motion of Senator Ferns, at 1:21 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 1:59 p.m. today and proceeded to the ninth order of business.

Senate Bill 635, Relating to 2019 salary adjustment for employees of DHHR.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Eng. Com. Sub. for House Bill 2008, Relating to the Dealer Recovery Program.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 2655, Defining and establishing the crime of cyberbullying.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.

§61-3C-14c. Cyberbullying or specific acts of electronic harassment of minors; definitions; penalties; exceptions.

(a) It is unlawful for a person to knowingly and intentionally use a computer or computer network, as defined in §61-3C-3, to engage in conduct with the intent to harass, intimidate, or bully a minor, including, but not limited to:

(1) Posting, disseminating or encouraging others to post or disseminate private, personal, or sexual information pertaining to a minor on the Internet; or

(2) Posting obscene material, as defined in §61-3C-14a of this code, in a real or doctored image of a minor on the Internet;

(b) For the purposes of this section:

(1) “Harass, intimidate or bully” means any intentional gesture, or any intentional electronic, written, verbal, or physical act, communication, transmission or threat that:

(A) A reasonable person under the circumstances should know the act will have the effect of any one or more of the following:

(i) Physically harming a minor;

(ii) Damaging a minor’s property;

(iii) Placing a minor in reasonable fear of harm to his or her person; or

(iv) Placing a minor in reasonable fear of damage to his or her property; or

(B) Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or emotionally abusive environment for a minor.

(2) “Minor” means an individual under the age of 18 years old.

(c) This section does not apply to a peaceful activity intended to:

(i) Express a political view; or

(ii) Provide information to others with no intent to harass, intimidate, or bully.

(d) Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail for a period not to exceed one year, or both confined and fined.

The bill (Eng. Com. Sub. for H. B. 2655), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Education, was reported by the Clerk and adopted:

On page two, section three, lines nineteen and twenty, by striking out all of subsection (c) and inserting in lieu thereof a new subsection, designated subsection (c), to read as follows:

(c) The superintendent of schools may not require a physical examination to be included in the application for a work permit.

The bill (Eng. Com. Sub. for H. B. 2799), as amended, was then ordered to third reading.

Eng. House Bill 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**§15-5-15a. Paid leave for disaster service volunteers certain state officers and employees during a declared state of emergency.**

~~Any state employee who is a certified disaster service volunteer of the American Red Cross may be granted leave from his or her state employment with pay, for not more than fifteen work days in each year, to participate in specialized disaster relief services for the American Red Cross. Leave shall be granted under this section upon the request of the American Red Cross for the services of that employee and only upon the approval of that employee's immediate supervisor. Leave shall be granted without loss of pay, annual leave, sick leave, earned overtime compensation, seniority or compensatory time. The state shall compensate an employee granted leave under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from his or her state employment. Any supervisor granting leave to an employee for purposes of participating in specialized disaster relief shall make a report to the Governor which includes the name of the employee and the cost of salary and benefits of that employee during the period of the leave. The Governor shall keep a record of the total cost of the salary and benefits of employees who have been granted leave and in no event shall the total cost for all state agencies exceed \$100,000: *Provided*, That upon approval of the Governor and repayment of the cost to the employing agency, from the civil contingent fund, leave may be granted in an excess of a total cost of \$100,000 if a state of emergency has been proclaimed pursuant to section six of this article.~~

(a) Any state employee who is designated an essential member of an emergency aid provider may be granted leave from his or her state employment with pay, for not more than 15 work days in each year, to provide disaster relief or emergency services in areas of the state in which a state of emergency has been declared.

(b) Leave shall be granted under this section upon designation of the employee as an essential member by the chief executive

officer or other officer or agent of the emergency aid provider who has authority to act on its behalf, and upon approval of that leave by the employee's immediate supervisor and the head of the state agency for which the employee works: *Provided*, That the state agency head shall, prior to granting leave, first confirm that the total cost ceiling set forth in subsection (c) of this section has not yet been exceeded, and that granting leave to the employee will not adversely impact the ability of the state agency to perform its required duties. Leave shall be granted without loss of pay, annual leave, sick leave, earned overtime compensation, seniority, or compensatory time. The state shall compensate an employee granted leave under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from his or her state employment.

(c) Any supervisor granting leave to an employee for purposes of participating in disaster relief or emergency services pursuant to this section shall make a report to the Governor which includes the name of the employee and the total cost, if any, to the employing agency attributable to the temporary replacement of the employee granted leave in the circumstance where replacement is necessary. The Governor shall keep a record of the total cost reported, and in no event may the total cost for all state agencies exceed \$300,000 in any fiscal year: *Provided*, That upon approval of the Governor and repayment of the cost to the employing agency, from the Civil Contingent Fund, leave may be granted in an excess of a total cost of \$300,000 in any fiscal year: *Provided, however*, That the total cost of all leave, excluding any repayments from the Civil Contingent Fund, may not exceed a total cost of \$300,000 in any fiscal year.

(d) Notwithstanding the provisions of this section to the contrary, no person may be designated an essential member of an emergency aid provider for purposes of this section, if the person is employed by an emergency aid provider located in, or that customarily serves, an area included within the state of emergency declaration.

(e) As used in this section:

(1) “Emergency aid provider” means a local organization for emergency services as defined by §15-5-2 of this code or a volunteer fire department that is providing emergency services during a state of emergency as a result of the circumstances that resulted in the declaration of the state of emergency;

(2) “Essential member” means a person designated by an emergency aid provider whose services are needed to provide emergency services due to the circumstances that resulted in the declaration of the state of emergency;

(3) “State of emergency” means the situation existing after the occurrence of a disaster or circumstance in which a state of emergency has been declared by the Governor or by the Legislature pursuant to the provisions of §15-5-6 of this code, or in which a major disaster declaration or emergency declaration has been issued by the President of the United States.

The bill (Eng. H. B. 2869), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 3089, Relating to the adoption of instructional resources for use in the public schools.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4006, Revising the processes through which professional development is delivered for those who provide public education.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page nine, section two, after line thirteen, by inserting the following:

§5F-1-5. House Bill 4006 amendments effective date.

Except for instances where specifically provided otherwise, all amendments to this Code made by the passage of House Bill 4006 during the 2018 regular session of the Legislature shall become effective July 1, 2018.;

On page twenty-two, section four, lines thirty-three through forty-two, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) The Center for Professional Development, formerly provided for under §18A-3A-1 *et seq.* of this code before the effective date of the amendment and reenactment of this section during the 2018 regular session of the Legislature, is hereby transferred to be under the authority and control of the state board. To assist in the delivery of high quality professional development for teachers, principals, and other school employees, the state board shall incorporate within the Department of Education the Center for Professional Development whose general mission shall be under the direction of the state board to advance the quality of teaching and learning in the schools of West Virginia through programs, technical assistance and support to schools and school systems to meet the legislative findings and goals of this article. The center shall perform other duties that may be assigned to it by the state board. In addition, the center shall provide statewide coordination for the continued growth and development of advanced placement programs in West Virginia high schools, including, but not limited to, serving as a liaison for The College Board, Inc., and providing for the training of advanced placement teachers.;

On page twenty-nine, by striking out the article heading;

And,

On pages twenty-nine through thirty-two, by striking out all of sections two, five, and six.

On motion of Senator Stollings, the following amendments to the bill (Eng. Com. Sub. for H. B. 4006) were next reported by the Clerk and considered simultaneously:

On pages four and five, after the enacting clause, by striking out all of chapter four;

On pages five through seven, by striking out all of chapter five;

On pages seven and eight, by striking out all of chapter five-b;

On pages eight and nine, by striking out all of section two;

On pages nine through fifteen, by striking out all of article two;

On pages fifteen through eighteen, by striking out all of chapter six;

On page eighteen, by striking out all of chapter ten;

On pages twenty-two through twenty-nine, by striking out all of article ten-a, sections one, two, three, six-a, and twelve;

On pages thirty-two through thirty-four, by striking out article thirty;

On pages sixty-five through sixty-seven, by striking out all of article one-b;

And,

On page sixty-nine, after section six, by striking out the remainder of the bill.

Following discussion,

The question being on the adoption of Senator Stollings' amendments to the bill (Eng. Com. Sub. for H. B. 4006), the same was put.

The result of the voice vote being inconclusive, Senator Stollings demanded a division of the vote.

A standing vote being taken, there were fifteen “yeas” and eighteen “nays”.

Whereupon, Senator Carmichael (Mr. President) declared Senator Stollings’ amendments to the bill rejected.

The bill (Eng. Com. Sub. for H. B. 4006), as amended by the Committee on Education, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4009, State Settlement and Recovered Funds Accountability Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. ATTORNEY GENERAL.

§5-3-5. Fees to be paid into State Treasury.

[Repealed.]

ARTICLE 3A. STATE SETTLEMENT AND RECOVERED FUNDS ACCOUNTABILITY ACT.

§5-3A-1. Short title.

This article may be known and cited as the State Settlement and Recovered Funds Accountability Act.

§5-3A-2. Legislative findings.

(a) The Legislature hereby finds and declares that:

(1) Public accountability for funds or other assets recovered in a legal action or settlement by or on behalf of the general public, the state or its officers, agencies or political subdivisions is

appropriate and required, whether the character of the assets or funds recovered is public or private;

(2) Accountability for assets or funds recovered by, or behalf of, the state is essential to the public trust;

(3) While it may be important that in certain circumstances funds or assets received retain their character, identity, and purpose, it is also important that the process by which funds are administered be open to public scrutiny and accountability to the public; and

(4) The power to appropriate funds for public purposes is solely within the purview of the legislative branch of government, and the Legislature, as a steward of the budgetary process, shall take steps to assure that settlements are handled in a manner that assures maximum accountability to the citizens of the state and their duly elected legislative representatives.

§5-3A-3. Funds to be deposited in State Treasury subject to appropriation; exceptions.

(a) Unless excepted under subsection (d) of this section, when the Attorney General or other officer or agency of the state, in accordance with statutory or common law authority, is a party to or has entered his or her appearance in a legal action on behalf of the State of West Virginia, including ex rel. or other type actions, or participated in a claim that resulted in an extra-judicial settlement, and a disposition of that action or claim has resulted in the recovery of funds or assets to the state, of any kind or nature whatsoever, including, but not limited to, public funds and private funds or assets, the funds or assets awarded to the state are public funds and shall be deposited in the State Treasury in the General Revenue Fund. Nothing in this subsection shall be construed to apply to equitable relief that is obtained and directly related to any action or claim referenced in this subsection.

(b) Unless excepted under subsection (d) of this section, when the Attorney General or other officer or agency of the state, in accordance with statutory or common law authority, is a party to

or has entered his or her appearance in a legal action on behalf of the State of West Virginia, including ex rel. or other type actions or participated in a claim that resulted in an extra-judicial settlement and a disposition of that action or claim has resulted in the recovery of funds or assets to be held in trust by the state, through court action or otherwise, to administer the trust funds or assets, for charitable, eleemosynary, benevolent, educational, or similar public purposes, those funds shall be deposited in a special revenue account or trust fund established in the State Treasury. The Attorney General or other officer or agency of the state or a person, organization, or entity created by the Attorney General or other officer or agency of the state are prohibited from administering trust funds or assets for charitable, eleemosynary, benevolent, educational, or similar public purposes except as is thereafter provided by appropriation or statutory authorization. Nothing in this subsection shall be construed to apply to equitable relief that is obtained and directly related to any action or claim referenced in this subsection.

(c) Assets or funds deposited in an account in the State Treasury pursuant to subsection (a) or (b) of this section shall not be disbursed without a specific legislative appropriation of the deposited funds by the Legislature.

(d) With respect to funds or assets collected or recovered under subsections (a) or (b) of this section, the following shall apply and not be deposited in the General Revenue Fund of the state:

(1) Monies recovered or received by the state pursuant to §46A-7-101 et. seq. of this code, in which event the monies shall be deposited in the Consumer Protection Recovery Fund in accordance with, and otherwise comply with §5-3A-4 of this code:

(2) The recovery was on behalf of a political subdivision of the state and the funds or assets were specifically awarded to the political subdivision, in which event the recovery shall be transmitted to the treasurer of such political subdivision for deposit in its general fund;

(3) If, as part of a recovery under subsections (a) or (b) of this section, attorney fees, expenses, and costs are specifically awarded to the Attorney General, those monies shall be deposited in the Attorney General's General Administrative fund and shall be available for expenditure by the Attorney General: *Provided*, That should the matter involve an action brought by the Attorney General pursuant to §47-18-1 *et seq.* of this code, then such award of attorney fees, expenses, and costs shall be deposited in the Attorney General's Antitrust Enforcement Fund and shall be available for expenditure: *Provided, however*, That should the specifically awarded attorney fees and costs be owed to a special Assistant Attorney General appointed by the Attorney General pursuant to section three-a, article three of this chapter, then such attorney fees and expenses shall be paid to the Special Assistant Attorney General; or

(4) Civil asset forfeiture proceedings; or

(5) Fines and civil penalties.

§5-3A-4. Retention of operational monies by Attorney General

(a) *Legislative findings and purpose* - The Legislature finds and recognizes that the Attorney General bears the responsibility to investigate, research, prepare pleadings, and, if appropriate, bring action on behalf of the State, its agencies and its citizens. These litigation responsibilities include employing attorneys, investigators, support staff, and other administrative costs and expenses in performance of the Attorney General's duties. In order to effectively and efficiently perform litigation responsibilities, certain operational monies need to be retained by the Attorney General's office.

(b) Except as required under subsection (c) of this section, any monies recovered or received by the state as a result of a civil action filed by the Attorney General pursuant to §46A-7-1 *et seq.* of this code, shall be deposited in a separate special revenue fund by the State Treasurer, to be known as the Consumer Protection Recovery Fund, which is hereby created in the State Treasury and to be administered by the Attorney General as follows:

(1) The Attorney General shall transfer, upon the expiration of each fiscal year, from the Consumer Protection Recovery Fund into the General Revenue Fund of the state, any unencumbered monies in excess of \$7 million from the balance remaining in the Consumer Protection Recovery Fund.

(2) The monies in the Consumer Protection Recovery Fund shall be used by the Attorney General for the direct and indirect administrative, investigative, compliance, enforcement, or litigation costs and services incurred for consumer protection purposes in accordance with the provisions of chapter 46-A of this code.

(c) Any monies received by the Attorney General for the specific purpose of consumer restitution or refunds shall be placed in a separate special revenue fund by the State Treasurer, to be known as the Consumer Protection Restitution Fund, which is hereby created in the State Treasury under the administration of the Attorney General. All monies placed in the Consumer Protection Restitution Fund shall be paid out to the specific consumers for whom recovery was made: *Provided*, That when the Attorney General is unable to locate a consumer, for purposes of payment of restitution or refund, within one year of the date of receipt of any such restitution, said funds shall be transferred to the Consumer Protection Recovery Fund.

(d) Upon the effective date of this section, the Consumer Protection Fund, heretofore created in the State Treasury and administered by the Attorney General, is terminated and closed and any balance remaining in the fund shall be transferred to the Consumer Protection Recovery Fund for expenditure pursuant to subsection (b) of this section.

§5-3A-5. Preparation and enforceability of orders.

(a) In the preparation of a settlement agreement, conciliation agreement, memorandum of understanding, or other type of agreement setting forth a disposition that will result in the recovery of funds or assets by the state, the Attorney General, or other officer or agency of the state who is a party to or has entered his or her

appearance in the action on behalf of the State of West Virginia, may not agree to any terms contrary to the provisions of §5-3A-3 or §5-3A-4 of this code.

(b) In the preparation of a judgment order that will result in the recovery of funds or assets by the state, the Attorney General, or other officer or agency of the state who is a party to or has entered his or her appearance in the action on behalf of the State of West Virginia, shall advise the court of the provisions of this section and of the provisions of §5-3A-3 or §5-3A-4 of this code.

(c) In the event of an extra-judicial settlement that would result in the recovery of funds or assets by the state, the Attorney General, or other officer or agency of the state acting on behalf of the State of West Virginia, may not agree to any terms contrary to the provisions of sections three or four of this article.

§5-3A-6. Reporting and accountability.

(a) For purposes of this section, the Attorney General shall, on or before August 15 of each year, deliver to the Governor, the Joint Committee on Government and Finance, and the State Auditor, a report providing an accounting of receipts and expenditures for each fund administered by the Attorney General during the next preceding fiscal year.

(b) In addition to, and separate from, the annual report required to be filed under §5-3-4 of this code, the Attorney General shall, on or before January 15 of each year, deliver to the Governor, the Joint Committee on Government and Finance, and the State Auditor, a report of the causes described in §5-3A-3 of this code, in which there has been a disposition, and any extra-judicial settlements obtained, and summary of, the disposition, including amounts or assets recovered by the state during the next preceding calendar year.

(c) The report required by subsection (b) of this section shall also include:

(1) Amounts paid to any Special Assistant Attorney General or other persons under contract with the Attorney General to perform

legal services, for representing the state or a public officer or employee of the state; and

(2) The amount of judgments, settlements, costs, and fees awarded by the courts to the Attorney General or to the state, including its officers or agencies, in which the Attorney General has served as counsel on behalf of the state.

On motion of Senator Romano, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 4009) was reported by the Clerk:

On page four, section four, subsection (b), subdivision (1), by striking out “\$7” and inserting in lieu thereof “\$5”.

Following extended discussion,

The question being on the adoption of Senator Romano’s amendment to the Judiciary committee amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Takubo, Unger, and Woelfel—13.

The nays were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Rucker, Smith, Swope, Sypolt, Trump, Weld, and Carmichael (Mr. President)—20.

Absent: Mann—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano’s amendment to the Judiciary committee amendment to the bill rejected.

The question now being on the adoption of the Judiciary committee amendment to the bill.

Following discussion,

The question now being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4009), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4036, Increasing the maximum salaries of family case coordinators and secretary-clerks.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4156, Establishing the qualifications of full and part time nursing school faculty members.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Resources, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

~~§30-7-5. Schools of nursing; accreditation; standards; surveys and reports; failure to maintain standards.~~

~~An institution desiring to be accredited by the board for the preparation of practitioners of registered professional nursing shall file an application therefor with the board, together with the information required and a fee of \$50. It shall submit written evidence that: (a) It is prepared to give a program of nursing education which meets the standards prescribed by the board; and (b) it is prepared to meet all other standards prescribed in this article and by the board.~~

~~Instruction and practice may be secured in one or more institutions approved by the board. Such institution or institutions with which the school is to be affiliated shall be surveyed by the executive secretary of the board, who shall submit a written report~~

~~of the survey to the board. If, in the opinion of the board, the requirements for an accredited school to prepare practitioners of registered professional nursing are met, it shall approve the school as an accredited school. From time to time as deemed necessary by the board, it shall be the duty of the board, through its executive secretary, to survey all such schools. Written reports of such surveys shall be submitted to the board. If the board determines that any such accredited school is not maintaining the standards required by this article and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of accredited schools.~~

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-5. Schools of nursing.

(a) A nursing program is determined to be board approved if the program is accredited by a national nursing accrediting agency recognized by the United States Department of Education. The accreditation is considered board approved and is exempt from board rules that require ongoing approval if the school or program maintains this accreditation.

(b) By July 1, 2022, all nursing programs shall be accredited by a national accrediting agency recognized by the United States Department of Education. A program created after July 1, 2018, shall have 5 years to obtain accreditation by an accrediting agency recognized by the United States Department of Education.

(c) The board may require information concerning the nursing program to be reported to the board by legislative rule. The requested information shall be consistent with information already being collected by the schools which is required to maintain the program's accreditation.

(d) The board shall approve a new nursing program until the program is accredited by a national nursing accrediting agency recognized by the United States Department of Education.

§30-7-5a. Schools of nursing faculty requirements.

(a) Full-time nursing faculty members shall:

(1) Have a graduate degree with a major in nursing; have a bachelor's degree with a major in nursing and be enrolled in a graduate degree program with a major in nursing within one year of employment as a faculty member; or have a bachelor's degree with a major in nursing and at least 10 years of direct patient care experience in nursing;

(2) Have evidence of current experience in nursing practice and education sufficient to demonstrate professional competence. For faculty with less than two years' experience in education, the nursing program administrator will submit to the board mentoring and orientation plans as defined by board guidelines and function under the guidance of a faculty member fully qualified in the specific teaching area and professional competence; and

(3) Have credentials which verify status as a registered professional nurse in West Virginia.

(b) Part-time nursing faculty members shall:

(1) Have a graduate degree with a major in nursing; have a bachelor's degree with a major in nursing and be enrolled in a graduate degree program with a major in nursing within one year of employment as a faculty member; or have a bachelor's degree with a major in nursing and at least two years of direct patient care experience in nursing;

(2) Have evidence of current experience in nursing practice and education sufficient to demonstrate professional competence. For faculty with less than two years' experience in education, the nursing program administrator will submit to the board mentoring and orientation plans as defined by board guidelines and function under the guidance of a faculty member fully qualified in the specific teaching area and professional competence; and

(3) Have credentials which verify status as a registered professional nurse in West Virginia.

(c) The board may grant an exception to the requirements in §30-7-21(a) and §30-7-21(b) of this code for faculty members who have qualifications other than those set forth in these subsections which are acceptable to the board.

ARTICLE 7A. PRACTICAL NURSES.

§30-7A-8. Schools of practical nursing.

~~The board shall prescribe curricula and standards for schools, clinical practice areas and courses preparing persons for licensure under this article; it shall provide for surveys of such schools, clinical practice areas and courses at such times as it may deem necessary. It shall accredit such schools, clinical practice areas and courses as meet the requirements of this article and of the board. An institution desiring to conduct a school of practical nursing to be accredited by the board as such shall file an application therefor with the board, together with the information required and such fee as may be prescribed by the board. It shall submit satisfactory evidence that: (1) It is prepared to give the course of instruction and practical experience in practical nursing as prescribed in the curricula adopted by the board; and (2) it is prepared to meet other standards established by this law and by the board.~~

~~A survey of the institution or institutions, with which the school is to be, or is, affiliated, shall be made by the executive secretary of the board. The executive secretary shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited school of practical nursing are met, it shall approve the school as an accredited school of practical nursing. From time to time as deemed necessary by the board, it shall be the duty of the board, through its executive secretary, to survey all schools of practical nursing in the state. Written reports of such surveys shall be submitted to the board. If the board determines that any accredited school of practical nursing is not maintaining the standards required by the statutes and by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be removed from the list of accredited schools of~~

~~practical nursing and shall be in violation of this article. Nothing contained in this article shall infringe upon the rights or power of the state Board of Education, or county boards of education to establish and conduct a program of practical nurse education or other health occupation so long as the prescribed curricula meets the requirements of the board.~~

(a) A practical nursing program is determined to be board approved if the program is accredited by a national nursing accrediting agency recognized by the United States Department of Education. The accreditation is considered board approved and is exempt from board rules that require ongoing approval if the school or program maintains this accreditation.

(b) By July 1, 2022, all practical nursing programs shall be accredited by a national accrediting agency recognized by the United States Department of Education. A program created after July 1, 2018, shall have 5 years to obtain accreditation by an accrediting agency recognized by the United States Department of Education.

(c) The board may require information concerning the practical nursing program to be reported to the board by legislative rule. The requested information shall be consistent with information already being collected by the schools which is required to maintain the program's accreditation.

(d) The board shall approve a new practical nursing program until the program is accredited by a national nursing accrediting agency recognized by the United States Department of Education.

On motion of Senator Takubo, the following amendments to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 4156) were reported by the Clerk and considered simultaneously:

On page three, section five-a, by striking out all of subsection (c) and inserting in lieu thereof a new subsection, designated subsection (c), to read as follows:

(c) The board may grant an exception to the requirements in §30-7-5a(a) and §30-7-5a(b) of this code for faculty members who have qualifications other than those set forth in these subsections which are acceptable to the board.;

On page four, section eight, subsection (a), after the word “national” by striking out the word “nursing”;

And,

On page five, section eight, subsection (e), after the word “national” by striking out the word “nursing”.

Following discussion,

The question being on the adoption of Senator Takubo’s amendments to the Health and Human Resources committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4156), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4157, Eliminating the refundable exemption for road construction contractors.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4166, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4187, Business Liability Protection Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-14. Right of certain persons to limit possession of firearms on premises.

This section may be referred to as “The Business Liability Protection Act”.

(a) As used in this section:

(1) “Parking lot” means any property that is used for parking motor vehicles and is available to customers, employees, or invitees for temporary or long-term parking or storage of motor vehicles: *Provided*, That for purposes of this section, parking lot does not include the private parking area at a business located at the primary residence of the property owner.

(2) “Motor vehicle” means any privately-owned automobile, truck, minivan, sports utility vehicle, motor home, recreational vehicle, motorcycle, motor scooter, or any other vehicle operated on the roads of this state and, which is required to be registered under state law: *Provided*, That for purposes of this section, motor vehicle does not mean vehicles owned, rented, or leased by an employer and used by the employee in the course of employment.

(3) “Employee” means any person, who is over 18 years of age, not prohibited from possessing firearms by the provisions of this code or federal law, and

(A) Works for salary, wages, or other remuneration;

(B) Is an independent contractor; or

(C) Is a volunteer, intern, or other similar individual for an employer.

(4) “Employer” means any business that is a sole proprietorship, partnership, corporation, limited liability company, professional association, cooperative, joint venture, trust, firm, institution, association, or public-sector entity, that has employees.

(5) “Invitee” means any business invitee, including a customer or visitor, who is lawfully on the premises of a public or private employer.

(6) “Locked inside or locked to” means

(A) The vehicle is locked; or

(B) The firearm is in a locked trunk, glove box, or other interior compartment, or

(C) The firearm is in a locked container securely fixed to the vehicle; or

(D) The firearm is secured and locked to the vehicle itself by the use of some form of attachment and lock.

(b) Notwithstanding the provisions of this article, any owner, lessee or other person charged with the care, custody, and control of real property may prohibit the carrying openly or concealing of any firearm or deadly weapon on property under his or her domain: *Provided*, That for purposes of this section “person” means an individual or any entity which may acquire title to real property: *Provided, however*, That for purposes of this section “natural person” means an individual human being.

(c) Any natural person carrying or possessing a firearm or other deadly weapon on the property of another who refuses to temporarily relinquish possession of the firearm or other deadly weapon, upon being requested to do so, or to leave the premises, while in possession of the firearm or other deadly weapon, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or

both: *Provided*, That the provisions of this section do not apply to a natural person as set forth in ~~subdivisions (3) through (7), inclusive, subsection (a), section six of this article §61-7-6(a)(5) through §61-7-6(a)(7) and §61-7-6(a)(9) through §61-7-6(a)(10) of this code while the person is acting in his or her an official capacity; and or to a natural person as set forth in subdivisions (1) through (8), inclusive, subsection (b) of said section §61-7-6(b)(1) through §61-7-6(b)(8) of this code, while the person is acting in his or her official capacity; *Provided, however*, That under no circumstances, except as provided for by the provisions of ~~paragraph (I), subdivision (2), subsection (b), section eleven a of this article, §61-7-11a(b)(2)(A) through (I) of this code,~~ may any natural person possess or carry or cause the possession or carrying of any firearm or other deadly weapon on the premises of any primary or secondary educational facility in this state unless the natural person is a law-enforcement officer or he or she has the express written permission of the county school superintendent.~~

(d) *Prohibited acts.* – Notwithstanding the provisions of subsections (b) and (c) of this section:

(1) No owner, lessee, or other person charged with the care, custody, and control of real property may prohibit any customer, employee, or invitee from possessing any legally owned firearm, when the firearm is

(A) Lawfully possessed;

(B) Out of view;

(C) Locked inside or locked to a motor vehicle in a parking lot;
and

(D) When the customer, employee, or invitee is lawfully allowed to be present in that area.

(2) No owner, lessee, or other person charged with the care, custody, and control of real property may violate the privacy rights of a customer, employee, or invitee either

(A) By verbal or written inquiry, regarding the presence or absence of a firearm locked inside or locked to a motor vehicle in a parking lot; or

(B) By conducting an actual search of a motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle: *Provided*, That a search of a motor vehicle in a parking lot to ascertain the presence of a firearm within that motor vehicle may only be conducted by on-duty, law enforcement personnel, in accordance with statutory and constitutional protections.

(C) No owner, lessee, or other person charged with the care, custody, and control of real property may take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a motor vehicle in a parking lot for lawful purposes, except upon statements made pertaining to unlawful purposes or threats of unlawful actions involving a firearm made in violation of §61-6-24 of this code.

(3) No employer may condition employment upon either:

(A) The fact that an employee or prospective employee holds or does not hold a license issued pursuant to §61-7-4 or §61-7-4a of this code; or

(B) An agreement with an employee or a prospective employee prohibiting that natural person from keeping a legal firearm locked inside or locked to a motor vehicle in a parking lot when the firearm is kept for lawful purposes.

(4) No owner, lessee, or other person charged with the care, custody, and control of real property may prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot of the person's place of business because the customer's, employee's, or invitee's motor vehicle contains a legal firearm being carried for lawful purposes that is out of view within the customer's, employee's, or invitee's motor vehicle.

(e) *Limitations on duty of care; immunity from civil liability.* —

(1) When subject to the provisions of subsection (d) of this section, an employer, owner, lessee, or other person charged with the care, custody, and control of real property has no duty of care related to the acts prohibited under said subsection.

(2) An employer, owner, lessee, or other person charged with the care, custody, and control of real property is not liable in a civil action for money damages based upon any actions or inactions taken in compliance with subsection (d) of this section. The immunity provided in this subdivision does not extend to civil actions based on actions or inactions of employers, owners, lessees, or other persons charged with the care, custody, and control of real property unrelated to subsection (d) of this section.

(3) Nothing contained in this section may be interpreted to expand any existing duty or create any additional duty on the part of an employer, owner, lessee, or other person charged with the care, custody, and control of real property.

(f) *Enforcement.* – The Attorney General is authorized to enforce the provisions of subsection (d) of this section and may bring an action seeking either:

(1) Injunctive or other appropriate equitable relief to protect the exercise or enjoyment of the rights secured in subsection (d) of any customer, employee, or invitee;

(2) Civil penalties of no more than \$5,000 for each violation of subsection (d) and all costs and attorney's fees associated with bringing the action; or

(3) Both the equitable relief and civil penalties described in subdivisions (1) and (2) of this section, including costs and attorney's fees. This action must be brought in the name of the state and instituted in the Circuit Court of Kanawha County. The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of subsection (d) of this section.

(4) Notwithstanding any other provision in this section to the contrary, the authority granted to the Attorney General in this

subsection does not affect the right of a customer, employee, or invitee aggrieved under the authority of subsection (d) of this section to bring an action for violation of the rights protected under this section in his or her own name and instituted in the circuit court for the county where the alleged violator resides, has a principal place of business, or where the alleged violation occurred. In any successful action brought by a customer, employee, or invitee aggrieved under the authority of subsection (d) of this section, the court may award injunctive or other appropriate equitable relief and civil penalties as set forth in subdivisions one, two and three of this subsection. In any action brought by a customer, employee, or invitee aggrieved under the authority of subsection (d) of this section, the court shall award all court costs and attorney's fees to the prevailing party.

The bill (Eng. Com. Sub. for H. B. 4187), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4217, Permitting an attending physician to obtain a patient's autopsy report.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4251, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section one, line seven, after the word "employee" by inserting the words "or, as appropriate, nonclassified employee";

On page two, section one, line thirty-four, after the word "institution" by inserting the words "or, if the respective institution

does not have classified employees, a member from the institutional nonclassified employees duly elected by the nonclassified employees of the respective institution”;

On page three, section one, line seventy-one, after the word “employees” by inserting the words “or, as appropriate, nonclassified employees”;

On page three, section one, line seventy-two, after the word “employees” by inserting the words “or, as appropriate, nonclassified employees”;

On page five, section one, line one hundred one, after the word “employees” by inserting the words “or, as appropriate, nonclassified employees”;

And,

On page five, section one, line one hundred fifteen, after the word “employees” by inserting the words “or, as appropriate, nonclassified employees”.

The bill (Eng. Com. Sub. for H. B. 4251), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4270, Providing for the timely payment of moneys owed from oil and natural gas production.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Smith, as chair of the Committee on Energy, Industry, and Mining, and by unanimous consent, the unreported Energy, Industry, and Mining committee amendment to the bill was withdrawn.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 22. ENVIRONMENTAL RESOURCES.**ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS.****§22-6-22. Well report, logs, core samples, and cuttings to be filed; confidentiality and permitted use; authority to promulgate rules; reporting of production data for horizontal wells.**

(a) Within a reasonable time after the completion of the drilling of a shallow well or deep well, the well operator shall file with the secretary and with the state Geological and Economic Survey a completion report containing the following:

(1) The character, depth, and thickness of geological formations encountered, including fresh water, coal seams, mineral beds, brine, and oil and gas bearing formations; and

(2) Such other information as the secretary may require to effectuate the purposes of this chapter.

The secretary may promulgate such reasonable rules in accordance with §29A-3-1 *et seq* of this code, as may be considered necessary to ensure that the character, depth, and thickness of geological formations encountered are accurately logged: *Provided*, That the secretary shall not require logging by the use of an electrical logging device: *Provided, however*, That if electrical, mechanical, or geophysical logs are recorded in the well, the secretary may request copies of these logs: *Provided further*, That mechanical or geophysical logs may not include vertical seismic profiles or two-dimensional or three-dimensional seismic information.

(b) If a well operator takes core samples, that activity shall be noted within the report, and, within 60 days after filing the completion report, the operator shall, subject to the terms of this article, provide the state Geological and Economic Survey with a complete set of cores, consisting of at least quarter slabs, correctly labeled and identified according to depth. The core samples requested by and provided to the state Geological and Economic

Survey may not contain any materials or documents made with regard to analyzing or interpreting the core samples.

(c) If a well operator catches cuttings during the drilling of any deep or shallow well, that activity shall be noted within the report and, within 60 days after filing the completion report, the operator shall, subject to the terms of this article, provide the state Geological and Economic Survey with a sample of the cuttings, correctly labeled and identified according to depth.

(d) Any information, reports, cuttings, and core samples requested by and provided to the state Geological and Economic Survey by the operator shall be kept confidential at the written request of the operator for a specified amount of time as follows:

(1) Except for core samples, any logs, drill cuttings, reports and other information or materials that reveal trade secrets or other confidential business information relating to the competitive interests of the operator or the operator's privy may not be disclosed to the public for one year following delivery, unless the operator consents in writing to a shorter time. At the operator's written request, the period of confidentiality may be extended in annual increments: *Provided*, That the total period of confidentiality may not exceed three years.

(2) Any core samples may not be disclosed to the public for five years following delivery to the state Geological and Economic Survey, unless the operator consents in writing to a shorter time. At the operator's written request, the period of confidentiality may be extended for an additional five years: *Provided*, That the total period of confidentiality may not exceed 10 years.

(e) Notwithstanding the provisions of subsection (d) of this section, the state Geological and Economic Survey may store and process confidential information within its minerals mapping or geographic information systems; however, that confidential information may not be revealed to the public until the lapsing of the period of confidentiality created pursuant to subsection (d) of this section. After the period of confidentiality has lapsed, statistics or other information generated as the result of storage and

processing may be disclosed in the aggregate through articles, reports, maps, or lectures presented in accordance with generally accepted academic or scientific practices and in a manner to preclude the identification of a particular well or operator.

(f) A quarterly report of the monthly volumes of oil, natural gas, and natural gas liquids produced from any horizontal well drilled shall be filed with the Chief of the Office of Oil and Gas on a form prescribed by the Secretary of the West Virginia Department of Environmental Protection. All reported data shall be made available to the public through the Office of Oil and Gas' website within a reasonable time. The secretary has the express authority pursuant to this article, as well as pursuant to the powers enumerated in §22-6-2 of this code, to promulgate rules and to amend the current rules to require timely quarterly reporting of production data as well as to establish a process for collecting such data.

CHAPTER 37B. MINERAL DEVELOPMENT.

ARTICLE 1. INFORMATION REPORTING AND PAYMENTS TO OWNERS.

§37B-1-1. Oil and natural gas production information reporting from horizontal wells.

(a) An operator or producer or their agents, contractors or assigns shall provide the following information with each payment to all interest owners receiving payments resulting from the development and production of oil, natural gas, or their constituents by horizontal wells governed by §22-6A-1 *et seq.* of this code, being the Natural Gas Horizontal Well Control Act:

(1) A name, number, or combination of name and number, and the state issued American Petroleum Institute number that identifies each lease, property, unit, pad, and well, for which payment is being made, and the county in which the lease, property, and well are located;

(2) Month and year of production;

(3) Total barrels of oil; number of MCF, MMBTU, or DTH of natural gas; and volume of natural gas liquids produced from each well and sold;

(4) Price received per unit of oil, natural gas, and natural gas liquids produced;

(5) Gross value of the total proceeds from the sale of oil, natural gas, and natural gas liquids from each well less taxes and deductions set forth in §37B-1-1(a)(6) of this code;

(6) Aggregate amounts for each category of deductions for each well which affect payment and are allowed by law, including without limitation those deductions provided for under the terms of the governing lease;

(7) Interest owner's interest in production from each well expressed as a decimal or fraction and reported pursuant to §37B-1-1(a)(1) of this code;

(8) Interest owner's ratable share of the total value of the proceeds of the sale of oil, natural gas, and natural gas liquids prior to the deduction of taxes, if applicable, and other deductions set forth in §37B-1-1(a)(6) of this code;

(9) Interest owner's ratable share of the proceeds from the sale of oil, natural gas, and natural gas liquids less the interest owner's ratable share of taxes, if applicable, and other deductions set forth in §37B-1-1(a)(6) of this code; and

(10) Contact information of the producer of the oil, natural gas, or natural gas liquids, including a mailing address and telephone number.

(b) An interest owner who does not receive the information required to be provided under this section in a timely manner may send a written request for the information by certified mail. Not later than the 60th day after the date the operator or producer receives the written request for information under this section, the operator or producer shall provide the requested information to the interest owner. If the interest owner makes a written request for

information under this section and the operator or producer does not provide the information within the 60-day period, the interest owner may bring a civil action against the operator or producer to enforce the provisions of this section, and a prevailing interest owner shall be entitled to recover reasonable attorneys' fees and court costs incurred in the civil action.

§37B-1-2. Accumulation and payment of proceeds from production from horizontal wells.

Notwithstanding any of the other provisions of this article, proceeds from production of oil, natural gas, and natural gas liquids from horizontal wells may be accumulated by the owners, cotenants, lessees, operators, or their agents, contractors, or assigns, until such time as proceeds attributable to any interest owner exceeds \$100 before making a remittance: *Provided*, That, regardless of the amount of money accumulated, the owners, cotenants, lessees, operators, or their agents, contractors, or assigns shall remit proceeds from horizontal wells attributable to the interest owners not less than once annually: *Provided further*, That all accumulated proceeds from horizontal wells shall be paid to the interest owners entitled thereto immediately, or as soon as practicable, upon cessation of production of oil, natural gas, or natural gas liquids or upon relinquishment or transfer of the payment responsibility to another party.

§37B-1-3. Payments from horizontal wells to be made timely; interest penalties.

All regular production payments from horizontal wells due and owing to an interest owner shall be tendered in a timely manner, which shall not exceed 120 days from the first date of sale of oil, natural gas, or natural gas liquids is realized and within 60 days thereafter for each additional sale, unless such failure to remit is due to lack of record title in the interest owner, a legal dispute concerning the interest, a missing or unlocatable owner of the interest, or due to conditions otherwise specified in this article. Failure to remit timely payment for horizontal wells shall result in a mandatory additional payment of an interest penalty to be set at the prime rate plus an additional two percent until such payment is

made, to be compounded quarterly. The prime rate shall be the rate published on the day of the sale of oil, natural gas, and natural gas liquids in the *Wall Street Journal* reflecting the base rate on corporate loans posted by at least 75 percent of the nation's 30 largest banks.

The bill (Eng. Com. Sub. for H. B. 4270), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4338, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.

(a) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the

functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer is as follows:

Commissioner, Division of Highways, \$92,500; Commissioner, ~~Division of Corrections~~ Division of Corrections and Rehabilitation, ~~\$80,000~~ \$90,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police, \$85,000; Commissioner, Division of ~~Banking~~ Financial Institutions, \$75,000; Commissioner, Division of Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000; Commissioner, Division of Motor Vehicles, \$75,000; Director, Human Rights Commission, \$55,000; Commissioner, Division of Labor, \$70,000; ~~prior to July 1, 2011, Director, Division of Veterans Affairs, \$65,000~~; Chairperson, Board of Parole, \$55,000; members, Board of Parole, \$50,000; members, Employment Security Review Board, \$17,000; and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary as follows: Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an annual salary not to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000; Administration, \$95,000; Education and the Arts, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That any officer specified in this subsection whose salary is increased by more than \$5,000 as a result of the amendment and reenactment of this section during the 2011 regular session of the Legislature shall be paid the salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided in this subsection.

(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and shall be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, \$80,000; Director, Division of Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director, Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director, Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute, \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of Forestry, \$75,000; ~~Director, Division of Juvenile Services, \$80,000; Executive Director, Regional Jail and Correctional Facility Authority, \$80,000~~ and Executive Director of the Health Care Authority, \$80,000.

(c) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

The annual salary of each named appointive state officer shall be as follows:

Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director, Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency Management, \$65,000; and Adjutant General, \$125,000.

(d) No increase in the salary of any appointive state officer pursuant to this section may be paid until and unless the appointive state officer has first filed with the State Auditor and the

Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General, certifying that his or her spending unit is in compliance with any general law providing for a salary increase for his or her employees. The Attorney General shall prepare and distribute the form to the affected spending units.

CHAPTER 15A. DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY.

ARTICLE 1. DEFINITIONS.

§15A-1-1. Rules of construction generally.

Whenever in this chapter, or in any rule or regulation authorized by it, any of the words, terms, or phrases defined in this article are used, they shall be taken and construed to have the meaning, application, and effect ascribed to them in this article, unless otherwise specified or clearly intended.

§15A-1-2. “Department.”

“Department” means the Department of Military Affairs and Public Safety.

§15A-1-3. “Secretary.”

“Secretary” means the Secretary of the Department of Military Affairs and Public Safety.

§15A-1-4. “Commissioner” defined.

“Commissioner” means the Commissioner of the Division of Corrections and Rehabilitation within the Department of Military Affairs and Public Safety.

§15A-1-5. “Inmate” defined.

“Inmate” means an adult incarcerated person.

§15A-1-6. “Resident” defined.

“Resident” means a juvenile within the custody of the Division of Corrections and Rehabilitation.

ARTICLE 2. DIVISION OF ADMINISTRATIVE SERVICES.

§15A-2-1. Division of Administrative Services.

(a) The Division of Administrative Services is created within the department to perform the administrative services for identified agencies within the department.

(b) The Division of Administrative Services shall provide fiscal services, payroll services, human resources services, and procurement services for the Division of Corrections and Rehabilitation, created in §15A-3-1 *et seq.* of this code, and any other agencies or boards required by the secretary: *Provided*, That the secretary may not require the administrative services of the State Police, the West Virginia National Guard, or the West Virginia Military Authority be provided by the Division of Administrative Services.

(c) The State Police, the West Virginia National Guard, and the West Virginia Military Authority may elect to utilize the services of the Division of Administrative Services. The director of the Division of Administrative Services is authorized to enter into a memorandum of understanding with the head of the State Police, the West Virginia National Guard, or the West Virginia Military Authority to effectuate this utilization.

§15A-2-2. Division director; appointment and qualifications; powers and duties.

(a) The secretary shall appoint a director for the Division of Administrative Services who shall serve at the will and pleasure of the secretary. The director shall have extensive knowledge in the field of public safety and the principles and practices of administration and experience in the civil service system.

(b) The director shall have control and supervision of the Division of Administrative Services and shall be responsible for the work of each of its employees.

(c) The director shall have the authority to employ all personnel necessary to perform the functions of the Division of Administrative Services. The director shall also have the authority to employ assistants and attorneys as may be necessary for the efficient operation of the Division of Administrative Services.

(d) The director shall perform the duties herein specified and shall also perform other duties as the secretary may prescribe.

(e) Where reference in this article is made to the “director”, it shall mean the Director of the Division of Administrative Services.

§15A-2-3. Transfer of employees; continuation of programs; transfer of equipment and records; protection.

(a) Effective July 1, 2018, all persons employed on the effective date of this article by the Division of Juvenile Services, the Regional Jail and Correctional Facility Authority or the Division of Corrections whose current employment responsibilities include those to be provided by the Division of Administrative Services are hereby assigned and transferred to the Division of Administrative Services.

(1) The Division of Administrative Services shall assume all responsibilities of the administrative services sections of the Division of Juvenile Services, the Regional Jail and Correctional Facility Authority and the Division of Corrections, including those related to ongoing programs, benefits, litigation or grievances.

(2) All equipment and records necessary to effectuate the purposes of this article shall be transferred to the Division of Administrative Services.

(b) Any person transferred to the office of the director of the division of administrative services who on the effective date of this article is a classified civil service employee shall, within the limits contained in §29-6-1 *et seq.* of this code, remain in the civil service system as a covered employee. Any person transferred to the office of the director of the division of administrative services who on the effective date of this article is a classified exempt civil service employee, other than the Director, and his or her Deputy Directors,

and one exempt assistant, shall, within the limits contained in §29-6-1 et seq. of this code, be transferred into the civil service system as a permanent covered employee, and is no longer exempt: Provided, That any transferred employee that has been employed in his or her position for less than the required probationary period must first complete the probationary period prior to becoming a permanent covered employee.

ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.

§15A-3-1. Purpose and legislative intent.

(a) The primary purpose of the Division of Corrections and Rehabilitation is to enhance public safety by providing for the detention of juvenile offenders, both pretrial and adjudicated, pretrial detention of adult persons facing criminal charges, and incarceration and care of adult convicted offenders who have been sentenced by courts of proper jurisdiction to serve terms of incarceration.

(b) It is the intent of the Legislature:

(1) That juveniles and adult offenders be afforded appropriate education and treatment to reestablish their ability to live peaceably, consistent with the protection of the community;

(2) That persons held in pretrial detention, and committed to jails and correctional institutions of the state for whom release is available for crimes, be afforded appropriate treatment to reestablish their ability to live peaceably, consistent with the protection of the community;

(3) That persons committed to jails and correctional institutions of the state be released at the earliest possible date, consistent with public safety;

(4) To establish a just, humane, and efficient corrections program; and

(5) To avoid duplication and waste of effort and money on the part of public and private agencies.

(c) This chapter shall be construed in favor of public safety.

§15A-3-2. Division of Corrections and Rehabilitation established.

(a) The Division of Corrections and Rehabilitation is hereby established within the Department of Military Affairs and Public Safety. The executive and administrative head of the Division of Correction and Rehabilitation shall be the Commissioner appointed pursuant to §15A-3-3 of this code.

(b) Effective July 1, 2018, the Division of Corrections and the Division of Juvenile Services are hereby abolished. Except as otherwise provided in this chapter, the powers and authority of those divisions are hereby transferred to the Division of Corrections and Rehabilitation.

(c) Effective July 1, 2018, the powers and authority of the Regional Jail and Correctional Facility Authority Board, in relation to all functions of correctional operations, are hereby transferred to the Division of Corrections and Rehabilitation. The Regional Jail and Correctional Facility Authority Board shall only retain the powers authorized in §15A-8-1 *et seq.* of this code.

(d) Whenever in this code a reference is made to the Division of Corrections, it shall be construed to mean the Division of Corrections and Rehabilitation. Wherever in this code a reference is made to the Division of Juvenile Services, it shall be construed to mean the Division of Corrections and Rehabilitation. Whenever in this code reference is made to the Regional Jail and Correctional Facility Authority Board in relation to operations of any of the regional jails, it shall be construed to mean the Division of Corrections and Rehabilitation.

(f) Any person employed by the Division of Corrections and Rehabilitation who on the effective date of this article is a classified service employee shall, within the limits contained in §29-6-1 *et*

seq. of this code, remain in the classified service system as a covered employee.

(e) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-3-3. Commissioner of division; qualifications, oath and bond.

(a) A commissioner of the Division of Corrections and Rehabilitation shall be appointed by the Governor, by and with the advice and consent of the Senate, as provided in §6-7-2a of this code.

(b) Effective July 1, 2018, the offices of Commissioner of Division of Corrections, the Director of Juvenile Services, and the Executive Director of the Regional Jail and Correctional Facility Authority are hereby abolished. Except as otherwise provided in this chapter, the powers and authority of those officers are vested in the Commissioner of the Division of Corrections and Rehabilitation.

(c) The commissioner shall take and subscribe to the oath prescribed by the Constitution for public officials and shall execute an official bond in a penalty of \$15,000, conditioned as required by law. Premiums on the bond shall be paid from appropriations made for the commissioner’s office. The bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor and, when fully executed and approved, shall be filed in the office of the Secretary of State.

(d) Whenever in this code, reference is made to the Commissioner of the Division of Corrections or the Director of the Division of Juvenile Services, it shall be construed to mean the Commissioner of the Division of Corrections and Rehabilitation. Whenever in this code reference is made to the Executive Director of the Regional Jail and Correctional Facility Authority, in relation to operations of any of the regional jails, it shall be construed to mean the Commissioner of the Division of Corrections and Rehabilitation.

§15A-3-4. Powers and duties of commissioner generally.

(a) The commissioner, in order to carry out the purposes and intent of this chapter, shall:

(1) Exercise general supervision over the administration of the institutions under the jurisdiction of the division;

(2) Establish separate subdivisions, including a Bureau of Prisons and Jails, a Bureau of Juvenile Services, and a Bureau of Community Corrections, each to be headed by assistant commissioners, and other subdivisions as he or she deems advisable, which may be headed by one of the assistant commissioners, or by deputy directors. Nothing herein shall prohibit the commissioner from appointing the same person to head more than one subdivision;

(3) Establish rules, policies, and regulations in writing governing all subdivisions and institutions within the division;

(4) Establish an appropriate training program for personnel of the division;

(5) Classify the institutions of the division, varying according to the factors as security features, program, age, and sex of inmates, physical stature or size, character of inmates;

(6) Establish a system of classification of inmates and residents, through a reception and examination procedure;

(7) Cooperate with the Department of Education in providing for the education of inmates and residents in all institutions within the division, as provided in §18-2-13f of this code and any other provision of this code;

(8) Supervise the treatment, custody, and discipline of all inmates and residents and the maintenance of the institutions and their industries;

(9) Establish a system of compensation for inmates and residents of the institutions of the state who perform good and

satisfactory work either within the industrial program or in the servicing and maintenance of the institutions or any other institutions or camps within the state. The commissioner, or his or her designee, may establish a graduated scale of compensation to be paid to inmates and residents in accordance with their skill in industry; and

(10) Subject to the provisions in §25-1A-5 of this code, provide for the transportation of inmates between the jails and local holding facilities for court appearances.

(b) The commissioner, in order to carry out the purposes and intent of this chapter, may:

(1) Appoint a deputy commissioner to assist in the day to day operations of the division;

(2) Employ professional and support staff, including, but not limited to, certified public accountants, attorneys, assistants, and other employees as necessary for the efficient operation of the division;

(3) Acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

(4) Lease property, whether as a lessee or lessor;

(5) Conduct examinations and investigations and hear testimony and take proof, under oath or affirmation;

(6) Issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before the commissioner, or his or her designee, to conduct any hearing;

(7) Apply to the circuit court having venue of the offense to have punished for contempt any witness who refuses to obey a subpoena, refuses to be sworn or affirmed, or refuses to testify, or who commits any contempt after being summoned to appear;

(8) Sue and be sued, implead and be impleaded, and complain and defend in any court;

(9) Propose rules for legislative approval for the management and regulation of the affairs of the division pursuant to the provisions of §29A-3-1 *et seq.* of this code;

(10) Make policies for the management and regulation of the affairs of the divisions;

(11) Make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying on its business, including contracts with any other governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation to affect any or all of the purposes of this chapter;

(12) Accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the United States of America or from any governmental unit or any person, firm, or corporation, acceptance or disposition of gifts or grants; and

(13) Designate a facility as a rehabilitation facility; a rehabilitation facility may utilize recommendations on programming from West Virginia higher education institutions and share statistical data with the same institutions for study on the effectiveness of services provided by the institution.

§15A-3-5. Officers and employees of corrections institutions.

(a) The commissioner, or his or her designee, has the authority to manage and administer the finances, business, operations, security, and personnel affairs of correctional units and juvenile facilities under the jurisdiction of the division.

(b) The superintendent of each institution or correctional unit has the power to hire all assistants and employees required for the management of the institution in his or her charge, but the number of the assistants and employees, and their compensation, shall first be approved by the commissioner.

(c) It is the duty of the commissioner to investigate any complaint made against the superintendent of any institution, and

against any other officer or employee thereof, if the same has not been investigated.

(d) All prospective correctional employees shall pass a preemployment drug screening prior to being hired.

(e) All persons employed at a state-operated correctional institution or correctional unit are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

§15A-3-6. Hiring of correctional officer without regard to position on the register.

Notwithstanding any provision of law to the contrary or any rule promulgated under the provisions of this code, the Division of Corrections and Rehabilitation may hire any person listed on the Correctional Officer I Register for employment as a Correctional Officer I without regard to the person's position on the register: *Provided*, That no person on the Correctional Officer I Register may be offered employment or hired before an otherwise qualified person on a preference register who is willing to accept the position.

§15A-3-7. Compensation of employees; traveling and other expenses.

The commissioner shall, in accordance with the provisions of §29-6-1 *et seq.* of this code, approve the salaries of all employees of the division. Salaries shall be commensurate with their duties and responsibilities, but no meals or other emoluments of any kind shall be furnished, given, or paid to the employee as all or part of their salary. The employees may be provided meals, household facilities, and supplies as may be necessary for them to perform their duties, if the employees agree to pay the reasonable cost as established by the commissioner. In the event of an emergency, such as a riot or other disturbance, the commissioner may authorize meals to be provided to employees at no cost. Additionally, the

commissioner may establish a procedure to reimburse employees reasonable costs in the event the employee's personal property is stolen or damaged by an inmate or resident. All persons employed under this article are entitled to be reimbursed for necessary traveling and other expenses.

§15A-3-8. Reports by commissioner and chief officers of institutions to Auditor.

The commissioner shall, from time to time, as may be necessary, make a report to the Auditor, which shall state the name of each person employed at any of the institutions named in §15A-3-12 of this code, his or her official designation and biweekly rate of compensation, and out of what funds or appropriation the same is payable. The superintendent of the institution, or other person who may have been appointed for the purpose by the commissioner, shall make and certify to the Auditor at the end of each month a list of persons to whom any payments may be due, stating for what purpose due, the amount due each person, and the fund or appropriation from which payable; one copy whereof shall be filed in the office of the institution where made, and one in the office of the commissioner. If the Auditor finds the list correct and in accordance with the reports made to him or her by the commissioner, he or she may pay to the persons entitled thereto the amounts so certified as due each.

§15A-3-9. Special compensation of officers and employees prohibited; penalty.

No officer or employee shall receive, directly or indirectly, any other compensation for his or her services than that provided by law, or by the commissioner before his or her appointment, nor shall he or she receive any compensation whatever, directly or indirectly, for any act or service which he or she may do or perform for or on behalf of any contractor, or agent, or employee of a contractor. For any violation of this section the officer, agent, or employee of the state engaged therein shall be dismissed from his or her office or service, and every contractor, or employee, or agent of a contractor, engaged therein shall be expelled from the grounds

of an institution, and not again employed in any institution as a contractor, agent, or employee.

§15A-3-10. Law-enforcement powers of employees.

(a) Other than as outlined in this section, a correctional officer employed by the division is not a law-enforcement officer as that term is defined in §30-29-1 of this code.

(b) The commissioner is a law-enforcement official, and has the authority to use, and permit and allow or disallow his or her designated employees to use, publicly provided carriage to travel from their residences to their workplace and return: *Provided*, That the usage is subject to the supervision of the Commissioner and is directly connected with and required by the nature and in the performance of the official's or designated employee's duties and responsibilities.

(c) All employees of the division are responsible for enforcing rules and laws necessary for the control and management of correctional units and the maintenance of public safety that is within the scope of responsibilities of the division.

(d) Persons employed by the Division of Corrections and Rehabilitation as correctional officers are hereby authorized and empowered to make arrests of persons already charged with a violation of law who surrender themselves to the correctional officer, to arrest persons already in the custody of the division for violations of law occurring in the officer's presence, to detain persons for violations of state law committed on the property of any facility under the jurisdiction of the commissioner, and to conduct investigations, pursue, and apprehend escapees from the custody of a facility of the division.

(e) The commissioner may designate correctional employees as correctional peace officers who have the authority:

(1) To detain persons for violations of state law committed on the property of any state correctional institution;

(2) To conduct investigations regarding criminal activity occurring within a correctional facility;

(3) To execute criminal process or other process in furtherance of these duties; and

(4) To apply for, obtain, and execute search warrants necessary for the completion of his or her duties and responsibilities.

(f) The Corrections Special Operations Team is hereby established and shall consist of the Corrections Emergency Response Team, the K9 unit, and the Crisis Negotiations team created under the former Division of Corrections. The Corrections Special Operations Team serves as the first responder necessary for the protection of life, liberty, and property. It shall have limited law-enforcement authority regarding matters occurring at jails, correctional centers, and juvenile centers, and arrest powers to apprehend escapees, absconders, and in all matters arising on the grounds of a facility under the care and control of the commissioner: *Provided*, That at any time the Corrections Special Operations Team is apprehending an escapee or an absconder outside the confinement of the facility grounds, it does so with the assistance and cooperation of local law enforcement or the West Virginia State Police.

§15A-3-11. Unauthorized use of uniform, badge, identification card, or other insignia; impersonation of member; and penalty.

(a) The commissioner shall prescribe the design, or designs, of uniforms used by employees of the division, which shall be dissimilar to the design of the uniform worn by the members of the State Police or the established statewide uniform of a sheriff or deputy sheriffs. A municipality shall not adopt for its police officers or other employees a uniform which is similar in design to the uniform adopted by the commissioner.

(b) No person who is not an officer or employee of the Division of Corrections and Rehabilitation, and no officer or employee of the division who is not authorized to do so, may, with intent to

deceive, wear, use, order to be used or worn, copy, or imitate in any respect or manner the uniform, badge, identification card, or other insignia prescribed for employees of the division.

(c) No person who is not an officer or employee of the Division of Corrections and Rehabilitation may falsely represent himself or herself to be an officer or employee of the Division of Corrections and Rehabilitation or to be under the order or direction of any officer or employee of the division.

(d) No person employed as an officer or employee of the Division of Corrections and Rehabilitation may use his or her position as such to threaten or coerce any other person in order to receive any favoritism, employment, or thing of favor by virtue of his or her employment with the division: *Provided*, That this subsection does not apply to violations of the Prison Rape Elimination Act.

(e) Any person who violates the provisions of §15A-3-118(b), §15A-3-11(c), or §15A-3-11(d) of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$200, or confined in the county or regional jail for not more than six months, or both fined and confined.

§15A-3-12. Institutions managed by commissioner.

(a) The commissioner shall manage, direct, control, and govern the prisons, jails, or correctional institutions of this state, and the juvenile facilities of this state, including, but not limited to:

Mount Olive Correctional Complex and Jail;

Huttonsville Correctional Center and Jail;

Anthony Correctional Center and Jail;

Denmar Correctional Center and Jail;

Pruntytown Correctional Center and Jail;

Northern Regional Jail and Correctional Center;

Saint Marys Correctional Center and Jail;

Lakin Correctional Center and Jail;

Ohio County Correctional Center and Jail;

Beckley Correctional Center and Jail;

Martinsburg Correctional Center and Jail;

Salem Correctional Center and Jail;

Parkersburg Correctional Center and Jail;

Charleston Correctional Center and Jail;

Central Regional Jail and Corrections Facility;

Eastern Regional Jail and Corrections Facility;

North Central Regional Jail and Corrections Facility;

Potomac Highlands Regional Jail and Corrections Facility;

South Central Regional Jail and Corrections Facility;

Southern Regional Jail and Corrections Facility;

Southwestern Regional Jail and Corrections Facility;

Tygart Valley Regional Jail and Corrections Facility;

Western Regional Jail and Corrections Facility;

Donald R. Kuhn Juvenile Center;

Gene Spadaro Juvenile Center;

J.M. Chick Buckbee Juvenile Center;

Kenneth “Honey” Rubenstein Juvenile Center;

Lorrie Yeager Juvenile Center;

Robert L. Shell Juvenile Center;

Sam Perdue Juvenile Center;

Tiger Morton Juvenile Center;

Vicki Douglas Juvenile Center; and

Any other juvenile or adult facility later transferred to the commissioner.

(b) The commissioner may contract with the county commission of McDowell County to house and incarcerate inmates at the Stevens Correctional Center consistent with all requirements and standards governing the division.

(c) The commissioner may contract with Youth Services System to house and detain juveniles at the Ronald Mulholland Juvenile Center consistent with all the requirements and standards governing the division.

(c) The commissioner may establish work and study release units as extensions and subsidiaries of those state institutions under his or her control and authority. The work and study release units may be coeducational and shall be managed, directed, and controlled as provided in this article.

(d) The commissioner may contract with nonprofit or charitable entities including, but not limited to, nonprofit community mental health clinics, operating half-way houses, or transitional housing facilities for the placement of persons in the commissioner's custody, whether confined or under parole supervision, as long as the facilities meet standards and criteria established by the commissioner.

(1) The commissioner may direct that a person who is placed in a half-way house or transitional housing facility under this section make reimbursement to the state in the amount of a reasonable sum calculated to offset all or part of the costs of the placement. Prior to ordering the person to make the reimbursement,

the commissioner, or his or her designee, shall consider the following:

(A) The person's ability to pay;

(B) The nature and extent of the person's responsibilities to his or her dependents, if any;

(C) The length of probable incarceration under the court's sentence; and

(D) The effect, if any, that reimbursement might have on the person's rehabilitation.

(2) The division shall provide the number of persons placed in a half-way house or a transitional housing facility as authorized in this section in its report made pursuant to §5-1-20 of this code, and shall describe its plans to use the authority provided under the provisions of §15A-3-12(f) of this code in furtherance of the duties and responsibilities imposed by this article.

(e) All adult persons sentenced by a court to serve a sentence of incarceration in a prison, jail, or correctional institution under the jurisdiction of the commissioner shall be deemed to be sentenced to the custody of the commissioner. The commissioner, or his or her designee, has the authority to and may order the transfer of any adult to any appropriate institution within the division.

(f) The commissioner has full discretionary authority to contract with any county jail, or other appropriate facility or institution for the incarceration and care of adult inmates. If a felony sentenced inmate is held in a jail facility or unit, under the jurisdiction of the commissioner, the commissioner shall pay a per diem rate, not subject to the limitations set forth in §15A-3-16(g) of this code.

(g) The commissioner, or his or her designee, may transfer any adult prisoner or inmate who is mentally disturbed and who would more appropriately be treated in an institution under the jurisdiction of the Bureau of Health, to the Bureau, subject to the

approval of the Director of Health, and may transfer any adult prisoner or inmate to an appropriate mental facility for specialized medical treatment.

(h) The commissioner shall, no later than July 1, 2019, complete an evaluation of all facilities within his or her control for the most appropriate space to house each type of inmate, and shall consult with the Juvenile Justice Commission on any and all intended uses of current or prospective juvenile facilities. This evaluation shall include an assessment of the physical plant of each institution, the inmate population size and type, and classification of inmates. Following completion of the evaluation, the commissioner shall develop a plan on how to best utilize the institutional space, and shall report to the Joint Committee on Government and Finance with recommendations regarding implementation of that plan. The commissioner may, from time to time, and as circumstances dictate, reorganize the facilities, and units within the facilities, to house pretrial inmates, convicted misdemeanants, and convicted felons in the most appropriate manner. No facility shall be converted from a juvenile to an adult facility, or from an adult to a juvenile facility, without legislative authorization.

§15A-3-13. Title to property of state institutions; custody of deeds and other muniments of title; authority of Commissioner.

The title to all property constituting or belonging to the several institutions named in §15A-3-12 of this code is vested in the state. The commissioner is custodian of all deeds and other muniments of title and shall cause such as are susceptible of recordation to be recorded in the proper offices. The commissioner is authorized, as lessor, to lease the West Virginia penitentiary in Moundsville, title to which is vested in the state by prior act of the legislator, for a term of not more than five years: *Provided*, That this section does not affect any lease in effect as of the effective date of this section. Any agreement entered into under this section shall be with the consent and approval of the Secretary of the Department of Military Affairs and Public Safety, and shall include a provision

within each agreement allowing for the immediate termination by the secretary or commissioner at any time.

§15A-3-14. Exempt from Purchasing Division; purchasing procedures.

(a) The provisions established in §5A-3-1 et seq. of this code do not apply to the division or any institution under the control of the division.

(b) When the cost under any contract or agreement entered into by the division, other than compensation for personal services, involves an expenditure of more than \$2,500 and less than \$25,000, the division shall solicit at least 3 bids, if possible, from vendors and make a written contract with the lowest responsible bidder. When the cost under any contract or agreement entered into by the division, other than compensation for personal services, involves an expenditure of \$25,000 or more, the division shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, the publication area for the publication to be the county or counties wherein the work is to be performed or which is affected by the contract, which notice shall state the general character of the work and general character of the materials to be furnished, the place where plans and specifications therefor may be examined and the time and place of receiving bids. But a contract for lease of a correctional facility is not subject to the foregoing requirements and the division may enter into the contract for lease pursuant to negotiation upon the terms and conditions and for the period as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or efficient acquisition or construction of the projects. The division may reject any and all bids. A bond with good and sufficient surety, approved by the division, shall be required of all contractors in an amount equal to at least 50 percent of the contract price, conditioned upon faithful performance of the contract.

(c) If the division has to make a purchase under emergency conditions, or an emergency situation, which jeopardizes the safe,

secure, and orderly operations of the division, as deemed by the Commissioner, and approved by the Secretary, §15A-3-14(a) and §15A-3-14(b) of this code shall not apply.

(d) The commissioner may enter into agreements with medical schools and institutions of higher education in this state to develop standards for appropriate and innovative medical programming and care for inmates: *Provided*, That the division will follow the procedures set forth in §15A-3-14(b) of this code for delivery of regular and normal medical care within the facilities.

§15A-3-15. Mutual aid agreements.

(a) The commissioner may enter into agreements to provide for the rendering of mutual aid with the political subdivisions of this state, other states, and the federal government to provide for the common defense, protect the public peace, health, and safety and to preserve the lives and property of the people of this state.

(b) Any agreement entered into under this section shall be with the consent and approval of the Secretary of the Department of Military Affairs and Public Safety, and shall include a provision within each agreement allowing for the immediate termination by the secretary or commissioner at any time.

§15A-3-16. Funds for operations of jails under the jurisdiction of the commissioner.

(a) Any special revenue funds previously administered by the Regional Jail and Correctional Facility Authority or its Executive Director are continued, and shall be administered by the commissioner.

(b) Funds that have been transferred by §15A-3-16(a) of this code shall be limited in use to operations of jail functions, and for payment to the Regional Jail and Correctional Facility Authority Board, for payment of indebtedness. In no case shall a fund be utilized to offset or pay operations of nonjail parts of the facility: *Provided*, That funds may be utilized on a pro rata basis for shared staff and for operational expenses of facilities being used as both prisons and jails.

(c) Whenever the commissioner determines that the balance in these funds is more than the immediate requirements of this article, he or she may request that the excess be invested until needed. Any excess funds so requested shall be invested in a manner consistent with the investment of temporary state funds. Interest earned on any moneys invested pursuant to this section shall be credited to these funds.

(d) These funds consist of the following:

(1) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in these funds;

(2) Contributions, grants, and gifts from any source, both public and private, specifically directed to the operations of jails under the control of the commissioner;

(3) All sums paid pursuant to §15A-3-16(g) of this code; and

(4) All interest earned on investments made by the state from moneys deposited in these funds.

(e) The amounts deposited in these funds shall be accounted for and expended in the following manner:

(1) Amounts deposited shall be pledged first to the debt service on any bonded indebtedness;

(2) After any requirements of debt service have been satisfied, the Commissioner shall requisition from these funds the amounts that are necessary to provide for payment of the administrative expenses of this article, as limited by this section;

(3) The commissioner shall requisition from these funds, after any requirements of debt service have been satisfied, the amounts that are necessary for the maintenance and operation of jails under his or her control. These funds shall make an accounting of all amounts received from each county by virtue of any filing fees, court costs or fines required by law to be deposited in these funds

and amounts from the jail improvement funds of the various counties;

(4) Notwithstanding any other provisions of this article, sums paid into these funds by each county pursuant to §15A-3-16(g) of this code for each inmate shall be placed in a separate account and shall be requisitioned from these funds to pay for costs incurred; and

(5) Any amounts deposited in these funds from other sources permitted by this article shall be expended based on particular needs to be determined by the commissioner.

(f)(1) After a jail facility becomes available pursuant to this article for the incarceration of inmates, each county within the region shall incarcerate all persons whom the county would have incarcerated in any jail prior to the availability of the jail facility in the jail facility, except those whose incarceration in a local jail facility used as a local holding facility is specified as appropriate under the previously promulgated, and hereby transferred standards and procedures developed by the Jail Facilities Standards Commission, and whom the sheriff or the circuit court elects to incarcerate therein.

(2) Notwithstanding the provisions of §15A-3-16(f)(1) of this code, circuit and magistrate courts are authorized to:

(A) Detain persons who have been arrested or charged with a crime in a county or municipal jail specified as appropriate under the standards and procedures referenced in §15A-3-16(f)(1), for a period not to exceed 96 hours; or

(B) Commit persons convicted of a crime in a county or municipal jail, specified as appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a period not to exceed 14 days.

(g) When inmates are placed in a jail facility under the jurisdiction of the commissioner pursuant to §15A-3-16(f) of this code, the county, and municipality if the incarceration is a municipal violation, shall pay into this fund a cost per day for each

incarcerated inmate to be determined by the state Budget Office, by examining the most recent three years of costs submitted by the commissioner for the cost of operating the jail facilities and units under his or her jurisdiction, and taking an average per day, per inmate cost of maintaining the operations of the jail facilities or units: *Provided*, That beginning July 1, 2018, and continuing through July 1, 2021, in no case shall any county or municipality be required to pay a rate that exceeds \$48.25 per day, per inmate. Nothing in this section shall be construed to mean that the per diem cannot be decreased or be less than \$48.25 per day per inmate.

(h) The per diem costs for incarcerating inmates may not include the cost of construction, acquisition, or renovation of the regional jail facilities: *Provided*, That each jail facility or unit operating in this state shall keep a record of the date and time that an inmate is incarcerated, and a county may not be charged for a second day of incarceration for an individual inmate until that inmate has remained incarcerated for more than 24 hours. After that, in cases of continuous incarceration, subsequent per diem charges shall be made upon a county only as subsequent intervals of 24 hours pass from the original time of incarceration.

(i) The county is responsible for costs incurred by the division for housing and maintaining inmates in its facilities who are pretrial inmates and convicted misdemeanants. The costs of housing shall be borne by the division on a felony conviction on which an inmate is incarcerated beginning the calendar day following the day of sentencing: *Provided*, that beginning January 1, 2019, the costs of housing shall be borne by the division on a felony conviction when an inmate is incarcerated beginning the calendar day following the day of conviction. In no case shall the county be responsible for any costs of housing and maintaining felony convicted inmate populations.

(j) The county is responsible for the costs incurred by the authority for housing and maintaining an inmate who, prior to a felony conviction on which the inmate is incarcerated and is awaiting transportation to a state correctional facility for a 60 day evaluation period as provided in §62-12-7a of this code.

(k) On or before July 1, 2020, the commissioner shall prepare a report on the feasibility of phasing out the county and municipal per diem charges required by §15(A)-3-16(g) of this code. This report shall include information regarding savings realized because of the consolidation of the former Division of Corrections, Division of Juvenile Services, and the operations of the Regional Jail and Correctional Facility Authority, as well as any other recommendations that might ease the burden of paying the per diem inmate costs by the counties or municipalities. On or before January 1, 2019, January 1, 2020 and January 1, 2021, the commissioner shall report to the Joint Committee on Government and Finance and the co-chairmen of the Joint Standing Committee on Finance the actual per diem rate as calculated pursuant to §15A-3-16(g) of this code and any amount not assessed to counties if the actual per diem cost is larger than the amount charged to the counties or municipalities pursuant to §15A-3-16(g) between July 1, 2018 and July 1, 2021.

§15A-3-17. Jail Operations Partial Reimbursement Fund.

(a) There is continued in the State Treasury the Jail Operations Partial Reimbursement Fund.

(b) Revenues deposited into this fund shall be composed of fees collected by magistrate courts pursuant to §50-3-2(a) of this code, and by circuit courts pursuant to §59-1-11 of this code.

(c) Revenues deposited into this fund shall be used to reimburse those counties and municipalities participating in the jail system for the cost of incarceration.

(d) The State Treasurer shall, in cooperation with the division, administer the fund. The State Treasurer shall determine the amount of funds available for reimbursement and, upon receiving a report from the commissioner containing the total number of inmate days in the fiscal year immediately concluded, the State Treasurer shall calculate the reimbursement to each participant based upon a pro rata share formula: *Provided*, That only counties and municipalities that, on July 1 of each year, are not more than 90 days delinquent in payments for moneys to incarcerate its

offenders are eligible to receive this reimbursement: *Provided, however,* That the pro rata share formula shall not include the counties or municipalities which are not entitled to reimbursement pursuant to this section.

(e) A participant's share shall be comparable with its total of inmate days, which shall consist of the number of inmates it contributed to the regional jail system and the number of days those inmates remained incarcerated.

(f) A participant's share shall be disbursed annually, within 90 days of July 1 each year, as provided in §15A-3-17(d) of this section.

§15A-3-18. Rules.

(a) The commissioner is authorized to propose rules for legislative authorization pursuant to §29A-3-1 *et seq.* of this code or develop policies for the proper execution of his or her duties and powers; adopt rules or policies for the government of the institutions named or referred to in §15A-3-12 of this code; adopt rules or policies for the administration of the financial and business affairs of the institutions named or referred to in §15A-3-12 of this code, and establish policies regarding the treatment of mentally ill inmates, which reflect the safety and security concerns specific to jails and correctional facilities.

(b) All legislative rules and policies of the former Division of Corrections, the former Division of Juvenile Services, and the Regional Jail and Correctional Facility Authority shall remain effective until amended or terminated pursuant to the provisions of §29A-3-1 *et seq.* of this code by the Division of Correction and Rehabilitation: *Provided,* That these rules shall expire on July 1, 2021, if not superseded sooner.

(c) Notwithstanding any provisions of law to the contrary, the division is not subject to the rules promulgated by, nor any mandates upon, the board of health for the treatment of mentally ill patients.

ARTICLE 4. CORRECTIONS MANAGEMENT.**§15A-4-1. Applicability of article.**

(a) Except as otherwise provided herein, the provisions of this article relate to adult inmates housed in jails, prisons, and correctional facilities, and do not apply to juvenile residents housed in juvenile centers.

(b) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-4-2. Furlough programs.

(a) The commissioner may establish a furlough program for inmates committed to his or her custody for a felony offense. The program may provide that selected inmates be permitted to reside outside an institution operated by the division under legislative rules, pursuant to §29A-3-1 *et seq.* of this code, or policy directives, promulgated by the commissioner.

(b) The commissioner, or his or her designee, is authorized to propose rules for legislative authorization, pursuant to §29A-3-1 *et seq.* of this code, or policy directives, promulgated by the commissioner, a furlough program for pretrial and misdemeanor inmates under his or her control and custody in accordance with the following provisions:

(1) The program may include, but is not limited to, granting furloughs or special escorts for specified inmates under the commissioner’s control and custody to attend funerals or make hospital visits to terminally ill family members.

(2) The commissioner shall establish criteria to be used in determining which inmates are not likely to jeopardize public safety and should be granted a furlough or a special escort through this program.

(3) The commissioner is authorized to establish any other guidelines he or she considers necessary to administer the program and to ensure public safety, including, but not limited to:

(A) Eligibility for consideration, restrictions, conditions, and procedures; and

(B) The family relationship an inmate must have with the deceased or terminally ill individual in order to qualify for consideration for a furlough.

(c)(1) The division, the commissioner, members of the Regional Jail and Correctional Facility Authority Board, and employees of the division are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act of an inmate while on a furlough granted under this section.

(2) The immunity from suit and liability provided in this subsection does not extend to liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any person identified in §15A-4-2(c)(1) of this code.

§15A-4-3. Electronic monitoring of offenders; special account.

(a) The commissioner may use electronic monitoring equipment to aid in the supervision of offenders.

(b) The commissioner shall charge offenders subject to supervision by means of electronic monitoring equipment a reasonable fee, to be established under a legislative rule proposed by the commissioner for legislative authorization pursuant to §29A-3-1 *et seq.* of this code, to help defray the costs of the purchase and use of the equipment and the division's operational costs: *Provided*, That an offender's inability to pay a fee does not preclude the offender from being eligible for this program.

(c) All fees collected shall be deposited in a special account in the State Treasury designated the "electronic monitoring program account." The funds deposited in the account may be used by the commissioner only for the operation of the program and for the administration of the division.

(d) For purposes of this section, “electronic monitoring equipment” means an electronic device or apparatus approved by the division that is capable of recording or transmitting information regarding the offender’s presence or nonpresence in a designated area. The device shall be minimally intrusive. Except to the extent provided in this section, the division shall not approve any monitoring device which is capable of recording or transmitting: (1) Visual images, except for that of a still image of the offender that can only be transmitted by the offender triggering the monitoring system; or (2) information as to the offender’s activities while he or she is within the designated area. A monitoring device may transmit information regarding blood alcohol levels. The monitoring device shall not be used to eavesdrop or record any conversation: *Provided*, That conversations between the offender and the person supervising the offender may be recorded solely for purpose of voice identification.

§15A-4-4. Diagnostic and classification divisions.

(a) The commissioner may continue and establish diagnostic and classification subdivisions.

(b) Notwithstanding any provision of this code to the contrary, all persons committed to the custody of the division for presentence diagnosis and classification, and all persons sentenced to the custody of the division shall, upon transfer to the division, undergo diagnosis and classification, which shall include:

(1) Assessments of a person’s criminogenic risk and need factors that are reliable, validated, and normed for a specific population and responsive to cultural and gender-specific needs as well as individual learning styles and temperament;

(2) Application of a mental health preliminary screen; and

(3) If the mental health preliminary screen suggests the need for further assessment, a full psychological evaluation.

(c) The division shall perform mental health preliminary screens, appraisals, and evaluations according to standards provided by the American Correctional Association.

§15A-4-5. Transfer of inmates of state institutions or facilities.

(a) The commissioner shall have authority to cause the transfer of any inmate from any facility under his or her control to any other state or federal institution or facility which is better equipped for the care or treatment of the inmate, or for other good cause or reason.

(b) Whenever an inmate committed to the custody of the division becomes mentally ill and his or her needs cannot be properly met within the correctional facility, the commissioner shall proceed in accordance with §15A-4-19 of this code.

(c) Whenever an inmate committed to the custody of the division needs medical attention, other than mental health care, not available at the prison, the superintendent of the facility shall immediately notify the commissioner who, after proper investigation, shall cause the transfer of the inmate to a facility properly equipped to render the medical attention necessary. The inmate, while receiving treatment in the hospital, shall be under an appropriate level of supervision at all times and shall forthwith be returned to his or her correctional facility upon release from the facility.

(d) In providing or arranging for the necessary medical and other care and treatment of a pregnant inmate, the superintendent of the facility shall take reasonable measures to assure that pregnant inmates will not be restrained after reaching the second trimester of pregnancy until the end of the pregnancy: *Provided*, That if the inmate, based upon her classification, discipline history, or other factors deemed relevant by the superintendent poses a threat of escape, or to the safety of herself, the public, staff, or the fetus, the inmate may be restrained in a manner reasonably necessary: *Provided, however*, That prior to directing the application of restraints and where there is no threat to the safety of the inmate, the public, staff, or the fetus, the superintendent, or designee shall consult with an appropriate health care professional to assure that the manner of restraint will not pose an unreasonable risk of harm to the inmate or the fetus.

§15A-4-6. Monitoring of inmate telephone calls; procedures and restrictions; calls to or from attorneys excepted.

(a) The commissioner, or his or her designee, is authorized to monitor, intercept, record, and disclose telephone calls to or from adult inmates of state institutions under his or her control, in accordance with the following provisions:

(1) All adult inmates of state institutions shall be notified in writing that their telephone conversations may be monitored, intercepted, recorded, and disclosed;

(2) Only the commissioner, superintendent, or their designee shall have access to recordings of inmates' telephone calls unless disclosed pursuant to §15A-4-6(a)(4) of this code;

(3) Notice shall be prominently placed on, or immediately near, every telephone that may be monitored;

(4) The contents of inmates' telephone calls may be disclosed to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the correctional institution; or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All recordings of telephone calls shall be retained for at least three years and maintained and destroyed in accordance with the record retention policy of the division adopted as required by §5A-8-1 *et seq.* of this code; or

(6) To safeguard the sanctity of the attorney-client privilege, a telephone line that is not monitored shall be made available for

telephone calls to or from an attorney. These calls may not be monitored, intercepted, recorded, or disclosed in any matter.

(b) The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of: (1) A copy of the contents of any inmate telephone conversation provided to law enforcement; and (2) the name of the law-enforcement officer and the law-enforcement agency to which the contents of the telephone conversation were provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in §29B-1-4(a)(4) of this code. The inmate's telephone conversation and the information regarding law enforcement are law-enforcement records under that subdivision.

(c) Should an inmate be charged with a crime based, in whole or in part, on the inmate's telephone conversation supplied to law enforcement, the inmate's attorney in the criminal matter shall be entitled to access to and copies of the inmate's telephone conversations in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(d) The provisions of this section apply only to those persons in the physical custody of the commissioner.

§15A-4-7. Monitoring inmate mail; procedures and restrictions; identifying mail from a state institution; mail to or from attorneys excepted.

(a) The commissioner, or his or her designee, is authorized to monitor, open, review, copy, and disclose mail sent to adult inmates of state institutions under his or her control, in accordance with the following provisions:

(1) All adult inmates of state institutions shall be notified in writing that their mail may be monitored, opened, reviewed, copied, and disclosed;

(2) Only the commissioner and his or her designee shall have access to copies of inmates' mail unless disclosed pursuant to §15A-4-7(a)(4) of this code;

(3) Notice that the mail may be monitored shall be prominently placed on or immediately near every mail receptacle or other designated area for the collection or delivery of mail;

(4) The contents of inmates mail may be disclosed to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the institution. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the institution; or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All copies of mail shall be retained for at least three years and maintained and destroyed in accordance with the records retention policy of the division adopted as required by §5A-8-1 *et seq.* of this code; or

(6) The inmate whose mail has been copied and disclosed under this section shall be given a copy of that mail when it is determined by the commissioner, or superintendent, not to jeopardize the safe and secure operation of the facility or to be detrimental to an ongoing investigation or administrative action.

(b) To safeguard the sanctity of the attorney-client privilege, mail to or from an inmate's attorney shall not be monitored, reviewed, copied, and kept by the institution, or disclosed in any manner unless required by an order of a court of competent jurisdiction. However, that mail may be checked for weapons, drugs, and other contraband provided it is done in the presence of the inmate and there is a reasonable basis to believe that any weapon, drug, or other contraband exists in the mail.

(c) All inmates outgoing mail must be clearly identified as being sent from an inmate at a state correctional institution and

must include on the face of the envelope the name and full address of the institution.

(d) The commissioner or his or her designee is authorized to open, monitor, review, copy, and disclose an inmate's outgoing mail in accordance with the provisions of §15A-4-7(a) of this code.

(e) The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of: (1) All inmate mail provided to law enforcement; and (2) the name of the law-enforcement officer and the law-enforcement agency to which the inmate mail was provided. The records required to be retained pursuant to this subsection shall be retained in accordance with the record retention policy specified in §15A-4-77(a)(5) of this code. The inmate mail and the information regarding law enforcement are law-enforcement records under §29B-1-4(a)(4) of this code.

(f) Should an inmate be charged with a criminal offense based, in whole or in part, on the inmate's mail supplied to law enforcement, the inmate's attorney in the criminal matter shall be entitled access to and copies of the inmate's mail in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(g) The provisions of this section apply only to those persons in the physical custody of the commissioner.

§15A-4-8. Monitoring of inmate electronic correspondence; procedures and restrictions; to or from attorneys excepted.

(a) The commissioner, or his or her designee, is authorized to monitor, intercept, record, and disclose electronic communications to or from adult inmates of state institutions under his or her control, in accordance with the following provisions:

(1) All adult inmates of state institutions shall be notified in writing that their electronic communications may be monitored, intercepted, recorded, and disclosed;

(2) Only the commissioner, superintendent, or their designees, shall have access to copies or recordings of inmates' electronic communications unless disclosed pursuant to §15A-4-8(a)(4) of this code;

(3) Notice shall be prominently placed on, or immediately near, every electronic communications device that may be monitored;

(4) The contents of inmates' electronic communications may be disclosed to an appropriate law-enforcement agency, or the West Virginia Intelligence Fusion Center, when disclosure is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution. Disclosure may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal when the disclosure is:

(A) Necessary to safeguard and protect the orderly operation of the correctional institution; or

(B) Necessary to protect persons from physical harm or the threat of physical harm;

(5) All recordings or copies of electronic communications shall be retained for at least three years and maintained and destroyed in accordance with the record retention policy of the division adopted as required by §5A-8-1 *et seq.* of this code; or

(6) To safeguard the sanctity of the attorney-client privilege, a method of electronic communications that is not monitored shall be made available for communications to or from an attorney. These communications shall not be monitored, intercepted, recorded, or disclosed in any matter.

(b) The commissioner shall promulgate a policy directive establishing a record-keeping procedure which requires retention of: (1) A copy of the contents of any inmate electronic communication provided to law enforcement; and (2) the name of the law-enforcement officer and the law-enforcement agency to which the contents of the communications were provided. The records required to be retained pursuant to this subsection shall be

retained in accordance with the record retention policy specified in §15A-4-8(a)(5) of this code. The inmate's electronic communication and the information regarding law enforcement are law-enforcement records under §29B-1-4(a)(4) of this code.

(c) Should an inmate be charged with a crime based, in whole or in part, on the inmate's electronic communication supplied to law enforcement, the inmate's attorney in the criminal matter shall be entitled to access to and copies of the inmate's electronic communications in the custody of the commissioner which are not evidence in or the subject of another criminal investigation.

(d) The provisions of this section shall apply only to those persons in the physical custody of the commissioner.

§15A-4-9. Trustee accounts and funds, earnings and personal property of inmates and residents.

(a) The commissioner is authorized to establish at each institution under his or her jurisdiction a "Trustee Fund". The superintendent of each institution shall receive and take charge of the money and personal property, as defined by policy, of all inmates or residents in his or her institution and all money or personal property, as defined by policy, sent to the inmates or residents or earned by the inmates as compensation for work performed while they are domiciled there. The superintendent shall credit the money and earnings to the inmate or resident entitled to it and shall keep an accurate account of all the money and personal property so received, which account is subject to examination by the commissioner. The superintendent shall deposit the moneys in one or more responsible banks in accounts to be designated "Trustee Fund".

(b) For all felony sentenced inmates, except those serving life without mercy and those the superintendent determines are likely to serve the remainder of their natural lives in the custody of the division due to their age and the length of their sentences, the superintendent shall keep in an account at least 10 percent of all money earned during the inmate's or resident's incarceration and pay the money to the inmate or resident at the time of the inmate's

or resident's release. The superintendent may authorize the inmate to withdraw money from his or her mandatory savings for the purpose of preparing the inmate for reentry into society.

(c) The commissioner may direct that offenders who work in community work programs, including work release inmates who have obtained employment, make reimbursement to the state toward the cost of his or her incarceration.

(d)(1) Prior to ordering an incarcerated offender to make reimbursement toward the costs of his or her incarceration, the commissioner, or his or her designee, shall consider the following:

(A) The offender's ability to pay;

(B) The nature and extent of the offender's responsibilities to his or her dependents, if any;

(C) The length of probable incarceration under the court's sentence; and

(D) The effect, if any, that reimbursement might have on the offender's rehabilitation.

(2) No order of reimbursement entered pursuant to this section may exceed \$500 per month unless the offender gives his or her express consent; and

(3) The commissioner shall, prior to the beginning of each fiscal year, prepare a report that details the average cost per inmate incurred by the division for the care and supervision of those individuals in his or her custody.

(e) The superintendent of any facility, on request of an inmate or resident, may expend up to one half of the money earned by the inmate or resident on behalf of the family of the inmate or resident if the 10 percent mandatory savings has first been set aside and other fees or court ordered obligations owed by the inmate or resident have been paid. The remainder of the money earned, after deducting amounts expended as authorized, shall be accumulated to the credit of the inmate or resident and be paid to the inmate or

resident at times as may be prescribed by rules. The funds so accumulated on behalf of inmates or residents shall be held by the superintendent of each institution under a bond approved by the Attorney General.

(f) The superintendent shall deliver to the inmate or resident at the time he or she leaves the institution, or as soon as practicable after departure, all personal property, moneys and earnings then credited to the inmate or resident, or in case of the death of the inmate or resident before authorized release from the institution, the superintendent shall deliver the property to the inmate's or resident's personal representative. In case a conservator is appointed for the inmate or resident while he or she is domiciled at the institution, the superintendent shall deliver to the conservator, upon proper demand, all moneys and personal property belonging to the inmate or resident that are in the custody of the superintendent.

(g) If any money is credited to a former inmate or resident after remittance of the sum of money as provided in §15A-4-9(f) of this code, the commissioner shall notify the former inmate or resident within 30 days of receipt of the money. The former inmate or resident will be afforded the opportunity to collect the money if he or she pays the cost of the transaction. If the former inmate or resident does not claim the money within 30 days of receiving the notice and the sum of money is less than \$10, the commissioner may place the money into the inmate benefit fund.

(h) The provisions of this section apply to both juveniles and adults within the custody of the commissioner.

§15A-4-10. Inmate or resident benefit funds.

(a) The commissioner shall establish an inmate, or resident, benefit fund for each of the institutions under his or her jurisdiction. The inmate, or resident, benefit fund is a fund held by the institutions for the benefit and welfare of inmates incarcerated, or juveniles placed in facilities under the jurisdiction of the commissioner, and for the benefit of victims.

(b) There is continued a special revenue account in the State Treasury for each inmate, or resident, benefit fund established by the commissioner. If an account does not currently exist for an institution, the commissioner may establish the account for that institution. Moneys received by an institution for deposit in an inmate, or resident, benefit fund shall be deposited with the State Treasurer to be credited to the special revenue account created for the institution's inmate, or resident, benefit fund: *Provided*, That commissions on any contract providing services to jail inmates shall not be deposited into this account. Moneys in a special revenue account established for an inmate benefit fund may be expended by the institution for the purposes set forth in this section. Moneys to be deposited into an inmate, or resident, benefit fund consist of, but are not limited to:

(1) All profit from the exchange or commissary operation and if the commissary is operated by a vendor, whether a public or private entity, the profit is the negotiated commission paid to the Division of Corrections and Rehabilitation by the vendor;

(2) All net proceeds from vending machines used for inmate or resident visitation;

(3) All proceeds from contracted inmate or resident telephone commissions;

(4) Any funds that may be assigned by inmates or donated to the institution by the general public or an inmate service organization on behalf of all inmates or residents;

(5) Any funds confiscated considered contraband; and

(6) Any unexpended balances in individual inmate or resident trustee funds if designated by the inmate upon his or her discharge from the institution.

(c) The inmate benefit fund may only be used for the following purposes at facilities:

(1) Open-house visitation functions or other nonroutine inmate or resident functions;

(2) Holiday functions which may include decorations and gifts for children of inmates or residents;

(3) Cable television service;

(4) Rental of movies;

(5) Payment of video license;

(6) Recreational supplies, equipment, or area surfacing;

(7) Reimbursement of employee wages for overtime incurred during open-house visitations and holiday functions;

(8) Post-secondary education classes;

(9) Reimbursement of a pro rata share of inmate or resident work compensation;

(10) Household equipment and supplies in day rooms or units as approved by superintendents of institutions, excluding supplies used in the daily maintenance and sanitation of the unit;

(11) Christmas or other holidays gift certificates for each inmate or resident to be used at the exchange or commissary;

(12) Any expense associated with the operation of the fund;

(13) Expenditures necessary to properly operate an automated inmate family and victim information notification system;

(14) Any expense for improvement of the facility which will benefit the inmate or resident population that is not otherwise funded;

(15) Any expense related to the installation, operation, and maintenance of the inmate or resident telephone system; and

(16) Restitution of any negative balance on any inmate's trustee account for inmate medical copay, legal and ancillary related postage, and photocopy fees that are due the State of West

Virginia, if the balance is uncollectible from an inmate after one calendar year from an inmate's release on parole or discharge date.

(d) The institution shall compile a monthly report that specifically documents inmate benefit fund receipts and expenditures and a yearly report for the previous fiscal year by September 1 of each year and submit the reports to the commissioner.

(e) The provisions of this section apply to both juveniles and adults within the custody of the commissioner.

§15A-4-11. Financial responsibility program for inmates.

(a) The Legislature finds that:

(1) There is an urgent need for vigorous enforcement of child support, restitution, and other court ordered obligations;

(2) The duty of inmates to provide for the needs of dependent children, including their necessary food, clothing, shelter, education, and health care should not be avoided because of where the inmate resides;

(3) A person owing a duty of child support who chooses to engage in behaviors that result in the person becoming incarcerated should not be able to avoid child support obligations; and

(4) Each sentenced inmate should be encouraged to meet his or her legitimate court-ordered financial obligations.

(b) As part of the initial classification process into a correctional facility, the division shall assist each inmate in developing a financial plan for meeting the inmate's child support obligations, if any exist. At subsequent program reviews, the division shall consider the inmate's efforts to fulfill those obligations as indicative of that individual's acceptance and demonstrated level of responsibility.

(c)(1) The superintendent shall deduct from the earnings of each inmate all legitimate court-ordered financial obligations. The

superintendent shall also deduct child support payments from the earnings of each inmate who has a court-ordered financial obligation. The commissioner shall develop a policy that outlines the formula for the distribution of the offender's income and the formula shall include a percentage deduction, not to exceed 50 percent in the aggregate, for any court ordered victim restitution, court fees and child support obligations owed under a support order, including an administrative fee, consistent with the provisions of §48-14-406(c) of this code, to support the division's administration of this financial service;

(2) If the inmate worker's income is subject to garnishment for child support enforcement deductions, it shall be calculated on the net wages after taxes, legal financial obligations, and garnishment;

(3) The division shall develop the necessary administrative structure to record inmates wages and keep records of the amount inmates pay for child support; and

(4) Nothing in this section limits the authority of the Bureau for Child Support Enforcement of the Department of Health and Human Resources from taking collection action against an inmate's moneys, assets, or property.

(d) If an inmate is awarded a civil judgment which awards him or her monetary damages, the court in which those damages are awarded shall enter an order which deducts all outstanding child support, restitution, or other court-ordered obligations from the award to the inmate, and satisfies those obligations, prior to releasing any funds to the inmate.

(e) The accumulation of the total funds, not necessary for current distribution, shall be invested, with the approval of the commissioner or as appropriate, through the West Virginia Municipal Bond Commission, in short term bonds or treasury certificates or equivalent of the United States. Bonds and certificates so purchased shall remain in the custody of the State Treasurer. The earnings from investments so made shall be reported to the principal officer of each institution from time to time, as earned, and shall be credited to the respective accounts of

the institutions by the West Virginia Municipal Bond Commission. When the earnings are transferred to the respective institutions, they shall be credited by the superintendent to the credit of, and for the benefit of, the inmate, or resident, benefit fund.

§15A-4-12. Limitation on reimbursement rate to medical service providers for services outside division facilities.

The division, or its contracted medical providers, may not pay an amount to an outside provider of a medical service for an adult inmate residing in a jail or correctional facility greater than the reimbursement rate applicable to service providers established in the West Virginia state Medicaid plan by the Bureau for Medical Services: *Provided*, That critical access hospitals shall be reimbursed at 75 percent of the billed charges. These limitations apply to all medical care services, goods, prescription drugs, and medications provided to a person who is in the custody of a correctional facility and is provided these services outside of a correctional facility: *Provided, however*, That the Department of Military Affairs and Public Safety and the Department of Health and Human Resources effectuate an interagency agreement for the electronic processing and payment of medical services.

§15A-4-13. Charges assessed against inmates for services provided by state.

(a) The commissioner is authorized to assess inmates serving a sentence in any state jail, penal, or correctional facility reasonable charges for health care and treatment services provided to them by the state. The charges assessed against an inmate may be deducted directly from the inmate's trustee account without the inmate's consent. The inmate shall be notified of the amount deducted and the charges to which it has been applied.

(b) As used in this section, a "reasonable charge" may not exceed the sum of \$25 for any billable service. Inmates shall be notified of the fee schedule, billable services, and exempt services. Services initiated by the inmate shall be assessed a fee, except that no charge may be assessed for: (1) a specific health care service required under the law of this state, including, by way of

illustration, tuberculin testing; (2) an emergency service following a traumatic injury other than a self-induced injury, or necessary to prevent death or severe or permanent disability; (3) diagnosis and treatment of communicable diseases, including, by way of illustration, tuberculosis or hepatitis; (4) treatment of diagnosed severe mental illness; (5) treatment of specific chronic conditions identified by the commissioner, including, by way of illustration, heart disease and diabetes; (6) staff-initiated care, including follow-up and referral visits; (7) preventive services that the commissioner determines are to be provided or made available to all inmates, including services related to disease prevention and promotion of proper health habits; or (8) other services as may be exempted by rule of the commissioner. No inmate may be denied any necessary billable medical service because of inability to pay the charge.

(c) Any inmate who intentionally ingests, inhales, injects, absorbs, applies, or otherwise exposes himself or herself to, in any manner whatsoever not otherwise specified herein, an illegal drug, a drug not legally prescribed to him or her, a drug in quantities above that recommended by a prescribing physician, a synthetic intoxicant, or any substance for the purpose of causing an excited, euphoric, or stupefied state, or altered perception, including hallucinations or delusions, and the inmate requires medical treatment due to the ingestion, inhalation, injection, absorption, application, or exposure shall reimburse the cost of the medical treatment to the division.

(d) Each inmate shall be afforded an opportunity at least quarterly to review all deposits into, withdrawals from, and balance remaining in the inmate's trustee account during the preceding three months.

(e) The commissioner shall promulgate interpretive rules implementing this section pursuant to §29A-3-1 *et seq.* of this code prior to making any assessment under this section. The policy directive rules may establish the fee schedule and list of billable services and further define services to be exempted.

§15A-4-14. Record of inmate or resident.

The commissioner shall file and preserve the record of the indictment and conviction, in the case of an adult, or the charges and adjudication, in the case of a juvenile, of each inmate or resident, and keep a register describing him or her, the term of his or her confinement, for what offense, and when received into the institution.

§15A-4-15. Manufacture of license plates, road signs or markers; securing signs and markers when federal government reimburses state for cost thereof.

For the purpose of obtaining license plates to be used upon motor vehicles licensed for operation in this state and road signs or markers of any description for state roads, the commissioner is hereby authorized and empowered on behalf of the state, to establish and operate a plant for the manufacture of the license plates and road signs or markers in his or her institution.

It shall be unlawful for any state official or employee to manufacture or obtain the license plates, road signs, or markers otherwise than as herein specified: *Provided*, That the Commissioner of Highways may originally secure road signs or markers from sources other than that provided herein.

§15A-4-16. Gifts to or dealings with convicts.

No officer or employee of the state, or contractor, or employee of a contractor shall make any gift or present to an inmate or resident, or receive any from an inmate or resident, or have any barter or dealings with a convict, except as allowed and permitted by the commissioner.

For every violation of this section, the party engaged therein shall be dismissed from his or her office or service, and every contractor, or employee, or agent of a contractor engaged therein shall be expelled from any facility within the jurisdiction of the commissioner, and not again employed in any institution as a contractor, agent, or employee.

§15A-4-17. Deduction from sentence for good conduct; mandatory supervision.

(a) All current and future adult inmates sentenced to a felony and, placed in the custody of the division, except those committed pursuant to §25-4-1 et seq. of this code, shall be granted commutation from their sentences for good conduct in accordance with this section: *Provided*, That nothing in this section shall be considered to recalculate the “good time” of inmates currently serving a sentence or of giving back good time to inmates who have previously lost good time earned for a disciplinary violation, except for those inmates currently serving a sentence for a misdemeanor.

(b) The commutation of sentence, known as “good time”, shall be deducted from the maximum term of indeterminate sentences or from the fixed term of determinate sentences.

(c) Each inmate committed to the custody of the commissioner and incarcerated in a facility pursuant to that commitment shall be granted one day good time for each day he or she is incarcerated, including any and all days in jail awaiting sentence which are credited by the sentencing court to his or her sentence pursuant to §61-11-24 of this code or for any other reason relating to the commitment. An inmate may not be granted any good time for time served either on parole or bond or in any other status when he or she is not physically incarcerated.

(d) An inmate sentenced to serve a life sentence is not eligible to earn or receive any good time pursuant to this section.

(e) An inmate under two or more consecutive sentences shall be allowed good time as if the several sentences, when the maximum terms of the consecutive sentences are added together, were all one sentence.

(f) The commissioner shall promulgate disciplinary rules and policies. The rules and policies shall describe acts that inmates are prohibited from committing, procedures for charging individual inmates for violation of the rules, and for determining the guilt or innocence of inmates charged with the violations, and the sanctions

which may be imposed for the violations. A copy of the rules shall be given to each inmate. For each violation, by a sanctioned inmate, any part or all of the good time which has been granted to the inmate pursuant to this section may be forfeited and revoked by the superintendent of the institution in which the violation occurred. The superintendent when appropriate and with approval of the commissioner, may restore any forfeited good time.

(g) Each inmate, upon his or her commitment to, and being placed into the custody of the commissioner, or upon his or her return to custody as the result of violation of parole pursuant to §62-12-19 of this code, shall be given a statement setting forth the term or length of his or her sentence or sentences and the time of his or her minimum discharge computed according to this section.

(h) Each inmate shall be given a revision of the statement described in §15A-4-17(g) of this code when any part or all of the good time has been forfeited and revoked or restored pursuant to §15A-4-17(f) of this code, by which the time of his or her earliest discharge is changed.

(i) The superintendent may, with the approval of the commissioner, allow extra good time for inmates who perform exceptional work or service.

(j) There shall be no grants or accumulations of good time or credit to any current or future inmate serving a sentence in the custody of the Division of Corrections and Rehabilitation except in the manner provided in this section.

(k) Prior to the calculated discharge date of an inmate serving a sentence for a felony crime of violence against the person, a felony offense where the victim was a minor child or a felony offense involving the use of a firearm, one year shall be deducted from the inmate's accumulated good time to provide for one year of mandatory post-release supervision following the first instance in which the inmate reaches his or her calculated discharge date. All inmates released pursuant to this subsection shall be subject to electronic or GPS monitoring for the entire period of supervision.

The provisions of this subsection are applicable to offenses committed on or after July 1, 2013.

(l) Upon sentencing of an inmate for a felony offense not referenced in §15A-4-17(k) of this code, the court may order that 180 days of the sentence, or some lesser period, be served through post-release mandatory supervision if the court determines supervision is appropriate and in the best interest of justice, rehabilitation, and public safety. All inmates released pursuant to this subsection shall be subject to electronic or GPS monitoring for the entire period of supervision. The provisions of this subsection are applicable to offenses committed on or after July 1, 2013.

(m) The commissioner shall adopt policies and procedures to implement the mandatory supervision provided for in §15A-4-17(k) and §15A-4-17(l) of this code, which may include terms, conditions, and procedures for supervision, modification, and violation applicable to persons on parole.

(n) As used in this section, “felony crime of violence against the person” means felony offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.* of this code, and the felony offenses of arson and burglary of a residence where an individual is physically located at the time of the offense as set forth in §61-3-1 *et seq.* of this code.

(o) As used in this section, “felony offense where the victim was a minor child” means any felony crime of violence against the person and any felony offense set forth in §61-8-1 *et seq.*, §61-8A-1 *et seq.*, §61-8C-1 *et seq.* or §61-8D-1 *et seq.* of this code.

§15A-4-18. Governor’s authority to authorize commissioner to consent to transfer of inmates under a federal treaty.

If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the Governor may, on behalf of the state and subject to the terms of the treaty and with the consent of the offender, authorize the commissioner to consent to the transfer or exchange of inmates in

his or her custody and take any other action necessary to initiate the participation of this state in the treaty. No transfer may occur pursuant to the provisions of this section until the inmate is informed of his or her rights and the procedures involved in his or her native language unless it is determined that the inmate's knowledge of English is sufficient.

§15A-4-19. Mentally ill inmates; treatment; transfer between correctional and mental health facilities; correctional facility procedures.

(a) No person who is, or was considered to be, mentally ill, intellectually disabled, or addicted shall be denied parole or a parole hearing based upon the past or present condition. In the event a convicted person is deemed to be an appropriate candidate for parole, but for a condition warranting involuntary hospitalization of the person, shall be paroled, and proceedings instituted pursuant to §27-5-4 of this code. Any time spent in such a facility shall be considered part of the term, and any person whose sentence expires while receiving treatment for a mental condition shall be discharged unless proceedings have been instituted and a determination made pursuant to §27-5-4 of this code.

(b) When a convicted person in a jail, prison, or other facility is believed to be mentally ill, intellectually disabled, or addicted, as those terms are defined in §27-1-1 *et seq.* of this code, and in need of treatment, training, or other services, the facts relating to the illness, shall be presented to the superintendent of the facility. The facts may be presented by a correctional officer, member of a correctional institution medical staff, relative, or the convicted person. Immediately upon receipt of the facts, the superintendent shall arrange for psychiatric or psychological examination of the person alleged to be so afflicted. If the report of the examination is to the effect that the individual is mentally ill, intellectually disabled, or addicted and that treatment, training, or other services are required which cannot reasonably be provided at the correctional facility, the superintendent shall file within 20 days after presentation of the facts an application for transfer with the clerk of the circuit court of the county of location of the correctional facility. The application for transfer shall include a

statement of the nature of the treatment which the person's condition warrants and the facility to which transfer is sought.

Within 10 days of receipt of the application from the superintendent, the mental hygiene commissioner or circuit judge shall appoint counsel for the convicted person if the person is indigent.

The clerk of the circuit court shall forthwith notify the convicted person, by certified mail, return receipt requested, delivered only to addressee, that the application has been filed, enclosing therewith a copy of the application with an explanation of the place and purpose of the transfer and the type of treatment to be afforded, together with the name, address, and telephone number of any appointed counsel. The person shall be afforded reasonable telephone access to his or her counsel. The clerk shall also notify the superintendent or other chief administrative officer of the facility to which transfer is sought. Within 15 days after receipt of notice, the convicted person, through counsel, shall file a verified return admitting or denying the allegations and informing the court or mental hygiene commissioner as to whether the respondent wishes to oppose the transfer. Counsel shall file the return only after personal consultation with the convicted person. The superintendent of the facility to which transfer is sought shall also file a return within 15 days of the receipt of notice, informing the court or mental hygiene commissioner as to whether the needed treatment or other services can be provided within that facility. If the superintendent objects to receiving the convicted person for treatment or services, the reasons for the objection shall be specified in detail.

If the transfer is opposed by either the convicted person or by the superintendent of the facility to which transfer is sought, the matter shall forthwith be set for hearing, in no event to exceed 30 days from the date of the return opposing the transfer, and the clerk shall provide to the convicted person, the superintendent of the facility to which transfer is sought, and the superintendent of the correctional facility, at least 10 days written notice, by certified mail, return receipt requested, of the purpose, time, and place of the hearing.

The convicted person shall be present at the hearing, and be afforded an opportunity to testify and to present and cross-examine witnesses. Counsel for the convicted person shall be entitled to copies of all medical reports upon request. The person shall have the right to an examination by an independent expert of the person's choice and testimony from the expert as a medical witness on the person's behalf. The cost of providing the medical expert shall be borne by the state if the person is indigent. The person shall not be required to give testimony which is self-incriminating. The circuit court or mental hygiene commissioner shall hear evidence from all parties, in accord with the rules of evidence. A transcript or recording shall be made of all proceedings, and transcript made available to the person within 30 days, if the same is requested for the purpose of further proceedings, and without cost if the person is indigent.

Upon completion of the hearing, and consideration of the evidence presented therein, the circuit court or mental hygiene commissioner shall make findings of facts as to whether or not: (1) The individual is mentally ill, intellectually disabled, or addicted; (2) the individual because of mental illness, mental retardation, or addiction is likely to cause serious harm to self or others; (3) the individual could not obtain the requisite treatment or training at the correctional facility or another appropriate correctional facility; and (4) the designated facility to which transfer is sought could provide the treatment or training with the security as the court finds appropriate; and, if all the findings are in the affirmative, the circuit court may order the transfer of the person to the appropriate facility. The findings of fact shall be incorporated into the order entered by the circuit court. In all proceedings hereunder, proof of mental condition and of likelihood of serious harm must be established by clear, cogent, and convincing evidence, and the likelihood of serious harm must be based upon evidence of recent overt acts.

§15A-4-20. Work program.

(a) The commissioner is authorized to establish at each institution a work program for qualified inmates. The commissioner shall establish guidelines and qualifications to allow

inmates sentenced to a regional jail facility to be gainfully employed with local businesses and governmental entities as part of a job program.

(b) An inmate who works in work programs established under this section may be required to make reimbursement to the division toward the cost of his or her incarceration to be credited to the agency billed for that incarceration, pursuant to the conditions set forth in §15A-4-19 of this code.

(c) Notwithstanding any provision of this code to the contrary, the county commission, its members and agents, the Division of Corrections and Rehabilitation or designee, its employees, agents, or assigns, the Regional Jail and Correctional Facility Authority Board, its members, agents, or assigns, the sheriff, and his or her deputies, shall be immune from all liability of any kind except for accident, injury, or death resulting directly from gross negligence or malfeasance.

§15A-4-21. Director of employment; director of housing; released inmates; duties.

The commissioner may employ or contract for a Director of Employment and a Director of Housing for released inmates. The Director of Employment shall work with federal, state, county, and local government and private entities to negotiate agreements which facilitate employment opportunities for released inmates. The Director of Housing shall work with federal, state, county, and local government and private entities to negotiate agreements which facilitate housing opportunities for released inmates. The Director of Employment shall investigate job opportunities and give every possible assistance in helping released inmates find employment. The Director of Housing shall work in conjunction with the Bureau of Community Corrections and the Parole Board to reduce release delays due to lack of a home plan, develop community housing resources, and provide short-term loans to released inmates for costs related to reentry into the community.

ARTICLE 5. BUREAU OF PRISONS AND JAILS.**§15A-5-1. Creation of Bureau of Prisons and Jails; organization of facilities.**

(a) The commissioner shall establish a Bureau of Prisons and Jails. The commissioner shall determine what adult facilities or institutions shall appropriately be managed by the Bureau of Prisons and Jails.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Prisons and Jails.

(c) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-5-2. Transfer of duties and funds of Division of Corrections.

All prior conveyed responsibilities of the Division of Corrections, and its Commissioner are hereby transferred to the Division of Corrections and Rehabilitation. All funds, both general revenue and special revenue, are hereby transferred to the Division of Corrections and Rehabilitation. Any funds administered by the Division of Corrections are to be administered by the Division of Corrections and Rehabilitation, and its Commissioner

§15A-5-3. Superintendents; duties and authority; bond; residence.

(a) The commissioner shall appoint a superintendent for each institution under the control of the division. Each superintendent shall be bonded by the Board of Risk and Insurance Management.

(b) The superintendent shall be the chief executive officer of his or her assigned correctional institution and, subject to the direction of the commissioner, has the responsibility for the overall management of all operations within his or her assigned institution. The superintendent shall be in charge of its internal police and management and shall provide for feeding, clothing, working and

taking care of the inmates, subject to the control of the commissioner.

(c) The superintendent shall promptly enforce all orders and rules made by the commissioner. He or she shall protect and preserve the property of the state and may for that purpose punish the inmates in the manner authorized by the commissioner. The superintendent shall have the custody and control of all the real and personal property at the correctional institution, subject to the orders of the commissioner.

(d) The commissioner may authorize the superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this code for the sole purpose of providing employees with funds to transport inmates for any purpose as determined by the superintendent, and any of the fund that currently exists is hereby continued. The employee is required to complete a travel reimbursement form for the travel within five days of returning to the correctional facility. The funds shall be used to reimburse the imprest fund for the amount expended by the employee.

§15A-5-4. Appointment of deputy superintendent; duties; bond.

Each superintendent, with the approval of the commissioner, may hire a deputy superintendent. The deputy superintendent's duties shall be fixed by the superintendent, as approved by the commissioner. In the absence of the superintendent, the deputy superintendent shall perform all the duties required of the superintendent. The deputy superintendent shall be bonded by the Board of Risk and Insurance Management.

§15A-5-5. Hiring of other assistants and employees.

The superintendent of each correctional institution or unit shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of the correctional institutions or units, including a sufficient number of correctional employees to preserve order and enforce discipline among the inmates, to prevent escapes, and to remove all persons convicted

and sentenced to the custody of the Division of Corrections and Rehabilitation, from the place confined to a correctional institution, all of whom shall be under the control of the superintendent: *Provided*, That the number of the assistants and employees, and their compensation, shall first be approved by the commissioner.

All persons employed at a state-operated correctional institution or correctional unit are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

§15A-5-6. Jail intake facilities; housing of adult inmates.

To the extent practicable, and in a manner consistent with providing for the safety of the public, correctional employees, and inmates, the commissioner will create space in every adult institution for both jail and prison populations: *Provided*, That in no case shall the commissioner be required to provide jail space in every institution in excess of space necessary for initial receiving, booking, and holding of an inmate to await transport by the Division of Corrections and Rehabilitation to the most appropriate housing placement for that inmate. In no case may a person who is a pretrial detainee, who is not currently serving a felony sentence in the custody of the commissioner, be held in a space designated as a prison unit. Further, no convicted misdemeanor actively serving a sentence on a misdemeanor shall be held in a space designated as a prison unit.

§15A-5-7. Pretrial risk assessment.

(a) Within three calendar days of the arrest and placement of any person in a jail, the division shall conduct a pretrial risk assessment using a standardized risk assessment instrument approved and adopted by the Supreme Court of Appeals of West Virginia. The results of all standardized risk and needs assessments are confidential and shall only be provided to the court, court personnel, the prosecuting attorney, defense counsel, and the person who is the subject of the pretrial risk

assessment. Upon completion of the assessment, the Division of Corrections and Rehabilitation shall provide it to the magistrate and circuit clerks for delivery to the appropriate circuit judge or magistrate.

(b) The pretrial risk assessment and all oral or written statements made by an individual during risk assessment shall be inadmissible evidence at any criminal or civil trial.

§15A-5-8. Jail processing fee.

(a) A person committed to be housed in jail by order of magistrate, circuit judge, or by temporary commitment order shall, at the time of initial booking into the jail, pay a processing fee of \$30. If the person is unable to pay at the time of booking, the fee shall be deducted, at a rate of 50 percent, from any new deposits made into the person's trust account until the jail processing fee is paid in full. The fee shall be credited to:

(1) The Jail's operating budget if the person is committed to and housed in a jail;

(2) The county commission if the person is committed to and housed in a county jail; or

(3) The municipality if the person is committed to and housed in a municipal jail. The fee should be paid prior to the offender being released.

(b) A refund of a fee collected under this section shall be made to a person who has paid the fee if the person is not convicted of the offense for which the person was booked and the person provides documentation from the court showing that all charges for which the person was booked were dismissed, accurate current name and address and a valid photographic identification. In the case of multiple offenses, if the person is convicted of any of the offenses the fee may not be refunded. If the person is convicted of a lesser included offense or a related offense, no refund may be made.

§15A-5-9. Ability to refuse offenders.

Notwithstanding any other provision of this code, the commissioner, or any employee of the division, having authority to accept offenders in a jail is not required to accept those offenders if an offender appears to be in need of medical attention of a degree necessitating treatment by a physician. If an offender is refused pursuant to the provisions of this section, he or she may not be accepted for detention until a written clearance from a licensed physician reflecting that the offender has been examined and if necessary treated, and which states that it is the physician's medical opinion that the offender can be safely housed in a jail.

ARTICLE 6. BUREAU OF JUVENILE SERVICES.**§15A-6-1. Creation of Bureau of Juvenile Services; organization of facilities.**

(c) The Commissioner of Corrections and Rehabilitation shall establish a Bureau of Juvenile Services. This bureau shall manage any juvenile facilities or units, as determined pursuant to §15A-3-12 of this code.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Juvenile Services.

(c) Where reference in this article is made to the "division", it shall mean the Division of Corrections and Rehabilitation.

§15A-6-2. Transfer of duties and funds.

All prior conveyed responsibilities and duties of the Division of Juvenile Services, and the Director of Juvenile Services, outlined in §49-1-101 *et seq.* of this code, are hereby transferred and conveyed to the Division of Corrections and Rehabilitation, and to its Commissioner. Any funds administered by the Division of Juvenile Services are to be administered by the Division of Corrections and Rehabilitation, and its Commissioner.

§15A-6-3. Superintendents; duties and authority; bond; residence.

(a) The commissioner shall appoint a superintendent for each institution under the control of the division. Each superintendent shall be bonded by the Board of Risk and Insurance Management.

(b) The superintendent shall be the chief executive officer of his or her assigned correctional institution and, subject to the direction of the commissioner, has the responsibility for the overall management of all operations within his or her assigned institution. The superintendent shall be in charge of its internal police and management and shall provide for feeding, clothing, working and taking care of the inmates, subject to the control of the commissioner.

(c) The superintendent shall promptly enforce all orders and rules made by the commissioner. He or she shall protect and preserve the property of the state and may for that purpose punish the inmates in the manner authorized by the commissioner. The superintendent shall have the custody and control of all the real and personal property at the correctional institution, subject to the orders of the commissioner.

(d) The commissioner may authorize the superintendent to establish an imprest fund in accordance with the provisions of §12-2-2 of this code for the sole purpose of providing employees with funds to transport inmates for any purpose as determined by the superintendent, and any of the fund that currently exists is hereby continued. The employee is required to complete a travel reimbursement form for the travel within five days of returning to the correctional facility. The funds shall be used to reimburse the imprest fund for the amount expended by the employee.

§15A-6-4. Appointment of deputy superintendent; duties; bond.

Each superintendent, with the approval of the commissioner, may hire a deputy superintendent. The deputy superintendent's duties shall be fixed by the superintendent, as approved by the commissioner. In the absence of the superintendent, the deputy superintendent shall perform all the duties required of the

superintendent. The deputy superintendent shall be bonded by the Board of Risk and Insurance Management.

§15A-6-5. Hiring of other assistants and employees; duties of correctional employees.

The superintendent of each juvenile institution or unit shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of the juvenile institutions or units, including a sufficient number of correctional employees to preserve order and enforce internal rules among the juvenile inmates, to prevent escapes, and carry out all other responsibilities as outlined in chapter 49 of this code.

All persons employed at a state-operated juvenile facility are subject to the supervision and approval of the superintendent and the authority of the commissioner, or his or her designee, except those persons employed by the State Board of Education, pursuant to §18-2-13f of this code.

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-1. Creation of Bureau of Community Corrections; Organization of facilities.

(a) The commissioner shall establish a Bureau of Community Corrections. The commissioner shall establish which adult facilities or institutions shall appropriately be managed by the Bureau of Community Corrections.

(b) The commissioner shall appoint an assistant commissioner, who shall oversee the Bureau of Community Corrections.

(c) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-7-2. Duties of superintendents; bond; residence.

The commissioner shall appoint a Superintendent for each institution under the control of the division. The superintendent of

a community corrections facility shall have the same duties and responsibilities as described in §15A-3-1 *et seq.* of this code.

§15A-7-3. Hiring of other assistants and employees; duties of employees.

(a) Each superintendent of a community corrections facility shall, in the manner provided in §15A-3-5 of this code, hire all assistants and employees required for the management of these facilities or units, including a sufficient number of correctional employees to preserve order and enforce discipline among the inmates or parolees, to prevent escapes, to enforce laws, rules, and policies, and to protect the public. Any person employed by the office of the Commissioner of the Division of Corrections and Rehabilitation who on the effective date of this article is a classified civil service employee shall, within the limits contained in §29-6-1 *et seq.* of this code, remain in the civil service system as a covered employee.

(b) The commissioner shall, in the manner provided in §15A-3-5 of this code, hire all probation and parole officers, assistants, and employees required to carry out the duties as proscribed in this code for management of the parolee population, and probation population, as set forth in §15A-7-4 and §62-13-2(b) of this code, for the management of parolees, to preserve order, and enforce discipline among the parolees, to enforce laws, rules, and policies, and to protect the public. Any person employed by the office of the Commissioner of the Division of Corrections and Rehabilitation who on the effective date of this article is a classified civil service employee shall, within the limits contained in §29-6-1 *et seq.* of this code, remain in the civil service system as a covered employee. Nothing in this section shall limit the abilities of the Supreme Court of Appeals of this state to carry forth their responsibilities and duties as proscribed in this code. All persons appointed or employed by the director shall be paid all necessary expenses incurred in the discharge of their duties.

§15A-7-4. Supervision of probationers and parolees; final determinations remaining with board of probation and parole.

The commissioner shall supervise all persons released on parole and placed in the charge of a state parole officer and all persons released on parole under any law of this state. He or she shall also supervise all probationers and parolees whose supervision may have been undertaken by this state by reason of any interstate compact entered into pursuant to the uniform act for out-of-state probation and parolee supervision. The commissioner shall prescribe rules for the supervision of probationers and parolees under his or her supervision and control, and shall succeed to all administrative and supervisory powers of the Parole Board and the authority of the Parole Board in those matters only.

The commissioner shall administer all other laws affecting the custody, control, treatment, and employment of persons sentenced or committed to institutions under the supervision of the department or affecting the operation and administration of institutions or functions of the division.

The final determination regarding the release of inmates from penal institutions and the final determination regarding revocation of parolees from those institutions pursuant to the provisions of §62-12-1 *et seq.* of this code shall remain within the exclusive jurisdiction of the Parole Board.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant: (1) Arrest or order confinement of any parolee or probationer under his or her supervision; and (2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has

successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

§15A-7-6. Parole supervision benefit fund.

(a) There is continued a special revenue account in the State Treasury designated the "Parole Supervision Benefit Fund". The fund is to be used by the Division of Corrections and Rehabilitation for the benefit of parolee supervision with approval of the commissioner. The fund shall consist of moneys received from any source, including, but not limited to, funds donated by the general public or an organization dedicated to parole supervision improvement, and funds seized from parolees that are forfeited pursuant to the provisions of §60A-7-701 *et seq.* of this code.

(b) Notwithstanding any other provision of this code to the contrary, the commissioner may authorize use of the money in the fund created pursuant to this section for payment to a community corrections program established pursuant to §62-11C-1 *et seq.* of this code for providing enhanced supervision of parolees.

ARTICLE 8. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY BOARD.

§15A-8-1. Powers and authority of the Regional Jail and Correctional Facility Authority Board; continuation of the Regional Jail and Correctional Facility Authority Board; payment of bonds; appeal of per diem rate.

(a) The Regional Jail and Correctional Facility Authority Board is continued, as follows:

(1) The powers and authority of the Regional Jail and Correctional Facility Authority Board, in relation to all functions of correctional operations, are hereby abolished, and these powers and authority are transferred to the Division of Corrections and Rehabilitation as of July 1, 2018. The Regional Jail and Correctional Facility Authority Board shall only retain the powers as now outlined in this chapter. Where reference in this code is made to the Regional Jail and Correctional Facility Authority, in relation to operations of any of the regional jails, it shall be construed to mean the Division of Corrections and Rehabilitation.

(2) The following powers and authority of the Regional Jail and Correctional Facility Board are hereby specifically abolished:

(A) To mortgage or otherwise grant security interests in its property;

(B) To borrow money and to issue its negotiable bonds, security interests, or notes and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, and to purchase, hold, and dispose of any of its bonds, security interests, or notes;

(C) To sell, at public or private sale, any bond or other negotiable instrument, security interest or obligation of the authority in a manner and upon terms that the authority considers would best serve the purposes of this article;

(D) To issue its bonds, security interests, and notes payable solely from the revenues or other funds available to the authority therefor; and the authority may issue its bonds, security interests, or notes in those principal amounts as it considers necessary to provide funds for any purposes under this article, including:

(i) The payment, funding, or refunding of the principal of interest on, or redemption premiums on, any bonds, security interests, or notes issued by it whether the bonds, security interests, notes, or interest to be funded or refunded have or have not become due; and

(ii) The establishment or increase of reserves to secure or to pay bonds, security interests, notes, or the interest thereon and all other costs or expenses of the Division of Corrections and Rehabilitation incident to and necessary or convenient to carry out its purposes and powers. Any bonds, security interests, or notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source whatsoever;

(E) To issue renewal notes or security interests, to issue bonds to pay notes or security interests and, whenever it considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no renewal notes shall be issued to mature more than 10 years from date of issuance of the notes renewed and no refunding bonds may be issued to mature more than 25 years from the date of issuance;

(F) To apply the proceeds from the sale of renewal notes, security interests, or refunding bonds to the purchase, redemption, or payment of the notes, security interests, or bonds to be refunded; and

(G) To sell security interests in the loan portfolio of the authority. The security interests shall be evidenced by instruments issued by the authority.

(3) The powers and duties of the board in relation to paying the current bond series, designated as The State Building Commission of West Virginia Lease Revenue Refunding Bonds (West Virginia Regional Jail and Correctional Facility Authority) Series 1998A, Series 1998B, and Series 1998C are specifically continued. The board, however, may not reissue these bonds, renegotiate the terms of the current bonds, or refinance these bonds. There is hereby created in the State Treasury a Regional Jail and Correctional Facility Board Fund. The fund shall be controlled by the board, and shall be utilized for the sole purpose of payment of the outstanding bond series as provided above. The Commissioner of the Division of Corrections and Rehabilitation shall, on or before the fifth day of every month, transfer to this fund the amount necessary for the monthly payment of the bond, as set forth by the yearly

communication from the creditor of the bonds. Further, on the effective date of this section, the commissioner shall transfer to this fund the reserve amount required by the bonds. On the date that the bonds are satisfied in full, these obligations shall cease, and any funds left in the board fund shall be transferred to the Commissioner of the Division of Corrections and Rehabilitation: *Provided*, That the funds can only be used in the manner directed or established by the board. Further, the board retains the authority to be able, and with consent of the Secretary of the Department of Military Affairs and Public Safety, to the extent permitted under its contracts with the holders of bonds, security interests, or notes of the authority, consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interest, note, or contract or agreement of any kind to which the authority is a party.

(4) The Regional Jail Authority shall review the per diem cost set by the state Budget Office, pursuant to §15A-3-16 of this code. If the authority believes that the amount set by the state Budget Office is incorrect, or that the amounts submitted by the Division of Corrections and Rehabilitation include more than what should be attributed to the efficient operation of jail facilities and units, the authority may institute an action in regard to this pursuant to §29A-5-1 *et seq.* of this code.

(5) The Regional Jail Authority retains the ability to sue, as defined in this article, and to be sued.

(b) Where reference in this article is made to the “division”, it shall mean the Division of Corrections and Rehabilitation.

§15A-8-2. West Virginia Regional Jail and Correctional Facility Authority Board; composition; appointment; terms; compensation and expenses.

The West Virginia Regional Jail and Correctional Facility Authority Board is continued. The members of the board in office on the date this section takes effect shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

The authority shall be governed by a board of nine members, seven of whom are entitled to vote on matters coming before the authority. The complete governing board shall consist of the Commissioner of the Division of Corrections; the Assistant Commissioner for the Bureau of Juvenile Services; the Secretary of the Department of Military Affairs and Public Safety; the Secretary of the Department of Administration, or his or her designated representative; two county commissioners and one sheriff appointed by the Governor, no more than two of which may be of the same political party; and two citizens appointed by the Governor to represent the areas of law and medicine. The Commissioner of the Division of Corrections and Rehabilitation and the Assistant Commissioner for the Bureau of Juvenile Services shall serve in an advisory capacity and are not entitled to vote on matters coming before the authority. Members of the Legislature are not eligible to serve on the board.

The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the five appointed members of the authority for staggered terms of four years.

Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

All members of the board shall execute an official bond in a penalty of \$10,000, conditioned as required by law. Premiums on the bond shall be paid from funds accruing to the Division of Corrections and Rehabilitation. The bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor and, when fully executed and approved, shall be filed in the office of the Secretary of State.

§15A-8-3. Governing body; organization and meetings; quorum; administrative expenses.

(a) The board shall consist of the voting members of the board as provided for in §15A-8-2 of this code and shall exercise all the powers given to the authority in this article. On the second Monday of July of each odd-numbered year, the board shall meet to elect a chairman and a secretary from among its own members. The Secretary of the Department of Administration or his or her designated representative shall serve as treasurer of the board. The board shall otherwise meet two times a year, unless a special meeting is called by its chairman.

(b) A majority of the members of the board constitute a quorum, and a quorum must be present for the board to conduct business. Unless the bylaws require a larger number, action may be taken by majority vote of the members present.

(c) The board shall prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the authority is conducted and shall review and approve the budget prepared by the executive director annually.

(d) All costs incidental to the administration of the board shall be paid from the jail operation fund by the Commissioner of Corrections and Rehabilitation.

CHAPTER 19. AGRICULTURE.

ARTICLE 12A. LAND DIVISION.

§19-12A-5. Powers, duties and responsibilities of commission.

(a) On or before July 1, 1990, the commission shall meet and confer with respect to the development of a management plan to determine the optimum use or disposition of all institutional farms, at which time the Farm Management Director shall provide the commission with a complete inventory of all institutional farms, and such information relating to easements, mineral rights, appurtenances, farm equipment, agricultural products, livestock, inventories, and farm facilities as may be necessary to develop such management plan. The commission shall complete and provide to the Governor a management plan, which plan shall set forth the objectives of the commission with respect to institutional farms,

the criteria by which the commission shall determine the optimum use or disposition of such property, and determinations as to whether each institutional farm shall be used in production, sold, or leased, in whole or in part. Prior to the adoption of any plan, the commission shall consult with the secretaries of the various departments of state government and shall request from such secretaries suggestions for land use and resource development on farm commission lands. On or before December 1, 1990, such management plan shall be presented to the Legislature, by providing a copy to the President of the Senate and the Speaker of the House of Delegates. The commission may confer with any other agency or individual in implementing and adjusting its management plan. The management plan established pursuant to this subsection may be amended, from time to time, as may be necessary.

(b) The commission shall manage its institutional farms, equipment, and other property in order to most efficiently produce food products for state institutions and shall implement the intent of the Legislature as set forth by this article. From the total amount of food, milk and other commodities produced on institutional farms, the commission shall sell, at prevailing wholesale prices, and each of the institutions under the control of the Bureau of Public Health ~~and the Division of Corrections~~ shall purchase, a proportionate amount of these products based on the dietary needs of each institution.

(c) If requested by the ~~commissioner of corrections~~ Commissioner of Corrections and Rehabilitation, the commission may authorize the Division of Corrections and Rehabilitation to operate a farm or other enterprise using inmates as labor on those lands. The ~~commissioner of corrections~~ Commissioner of Corrections and Rehabilitation is responsible for the selection, direction, and supervision of the inmates and shall assign the work to be performed by inmates.

(d) The commission is hereby authorized and empowered to:

(1) Lease to public or private parties, for purposes including agricultural production or experimentation, public necessity, or other

purposes permitted by the management plan, any land, easements, equipment, or other property, except that property may not be leased for any use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous materials as identified by the Commissioner of Agriculture be used or stored upon such property unless all applicable state and federal permits necessary are obtained. Any lease for an annual consideration of \$1,000 or more shall be by sealed bid auction and the commission shall give notice of such auction by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication is the county in which the property to be leased is located;

(2) Transfer to the public land corporation land designated in its management plan as land to be disposed of, which land shall be sold, exchanged, or otherwise transferred pursuant to §20-1A-4 and §20-1A-5 of this code: *Provided*, That the net proceeds of the sale of farm commission lands shall be deposited in the General Revenue Fund of the state: *Provided, however*, That no sale may be concluded until on or after March 15, 1991, except with respect to: (A) Properties located at institutions closed on or before the effective date of this section, March 10, 1990; or (B) properties conveyed to or from the farm management commission to or from any other entity in order to facilitate the construction of a regional jail or correctional facility by the Regional Jail and Correctional Facilities Authority or the State Building Commission, with the decision to execute any such conveyance being solely within the discretion of, and at the direction of, the Regional Jail and Correctional Facilities Authority;

(3) Develop lands to which it has title for the public use including forestation, recreation, wildlife, stock grazing, agricultural production, rehabilitation and/or other conservation activities and may contract or lease for the proper development of timber, oil, gas, or mineral resources, including coal by underground mining or by surface mining where reclamation as required by specifications of the Division of Environmental Protection will increase the beneficial use of such property. Any such contract or lease shall be by sealed bid auction as provided for in subdivision (1) above;

(4) Exercise all other powers and duties necessary to effectuate the purposes of this article.

(e) Notwithstanding the provisions of subsection (d) ~~herein~~ of this section, no timberland may be leased, sold, exchanged, or otherwise disposed of unless the Division of Forestry of the Department of Commerce, Labor and Environmental Resources certifies that there is no commercially salable timber on the timberland, an inventory is provided, an appraisal of the timber is provided, and the sale, lease, exchange, or other disposition is accomplished by the sealed bid auction procedure provided above in subdivisions (1) or (2), as applicable.

(f) The commission shall promulgate, pursuant to ~~chapter 29A~~ §29-1-1 et seq. of this code, rules and regulations relating to the powers and duties of the commission as enumerated in this section.

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-1. Office of commissioner of public institutions abolished; department and commissioner of corrections established; qualifications, oath and bond.

[Repealed.]

§25-1-1a. Purpose and legislative intent.

[Repealed.]

§25-1-3. Institutions managed by Commissioner of Corrections; certain institutions transferred to Department of Health and Human Resources; establishment of work and study release units; contracting with certain entities for reentry and direct placement services; reports to Governor.

[Repealed.]

§25-1-3a. Trustee accounts and funds, earnings and personal property of inmates.

[Repealed.]

§25-1-3b. Inmate benefit funds.

[Repealed.]

§25-1-3c. Financial responsibility program for inmates.

[Repealed.]

§25-1-4. Limitation on reimbursement rate to medical service providers for services provided for services outside division facilities.

[Repealed.]

§25-1-5. Rules and regulations.

[Repealed.]

§25-1-5a. Mutual aid agreements.

[Repealed.]

§25-1-6. Title to property of state institutions; custody of deeds and other muniments of title; authority of commissioner.

[Repealed.]

§25-1-7. Pruntytown Correctional Center established as a minimum security facility; limitations on type of residents therein.

[Repealed.]

§25-1-8. Charges assessed against inmates for services provided by state.

[Repealed.]

§25-1-11. Officers and employees of corrections institutions.

[Repealed.]

§25-1-11a. Duties of wardens and administrators; bond; residence.

[Repealed.]

§25-1-11b. Appointment of deputy warden; duties; bond.

[Repealed.]

§25-1-11c. Hiring of other assistants and employees; duties of correctional employees; right to carry weapons; powers of correctional peace officers.

[Repealed.]

§25-1-11d. Compensation of employees approved by commissioner; traveling and other expenses; payment of salaries.

[Repealed.]

§25-1-11e. Unauthorized use of uniform, badge, identification card or other insignia; impersonation of member; and penalty.

[Repealed.]

§25-1-11f. Hiring of correctional officer without regard to position on the register.

[Repealed.]

§25-1-13. Furlough programs.

[Repealed.]

§25-1-14. Electronic monitoring of offenders; special account.

[Repealed.]

§25-1-15. Diagnostic and classification divisions.

[Repealed.]

§25-1-16. Transfer of inmates of state institutions or facilities.

[Repealed.]

§25-1-16a. Governor's authority to authorize commissioner of corrections to consent to transfer of inmates under a federal treaty.

[Repealed.]

§25-1-17. Monitoring of inmate telephone calls; procedures and restrictions; calls to or from attorneys excepted.

[Repealed.]

§25-1-18. Monitoring inmate mail; procedures and restrictions; identifying mail from a state correctional institution; mail to or from attorneys excepted.

[Repealed.]

§25-1-19. Reports by Commissioner of Public Institutions and chief officers of institutions to Auditor.

[Repealed.]

§25-1-20. Reports to Governor.

[Repealed.]

§25-1-21. Employment of displaced correctional employees at other facilities.

[Repealed.]

§25-1-22. Task Force to Study the Feasibility of Establishing a Correctional Facility for the Incarceration and Treatment of Sex Offenders; members; duties.

[Repealed.]

CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 5. THE PENITENTIARY.

§28-5-7. Record of convict.

[Repealed.]

§28-5-8a. Manufacture of license plates, road signs or markers; securing signs and markers when federal government reimburses state for cost thereof.

[Repealed.]

§28-5-23. Special compensation of officers and employees prohibited; penalty.

[Repealed.]

§28-5-24. Gifts to or dealings with convicts.

[Repealed.]

§28-5-27. Deduction from sentence for good conduct; mandatory supervision.

[Repealed.]

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-1. Short title.

[Repealed.]

§31-20-1a. Legislative findings and purposes.

[Repealed.]

§31-20-2. Definitions.

[Repealed.]

§31-20-3. West Virginia Regional Jail and Correctional Facility Authority; composition; appointment; terms; compensation and expenses.

[Repealed.]

§31-20-4. Governing body; organization and meetings; quorum; administrative expenses.

[Repealed.]

§31-20-5. Powers and duties of the authority; bidding procedures.

[Repealed.]

§31-20-5a. Bidding procedures.

[Repealed.]

§31-20-5b. Prohibition against use or possession of tobacco products by inmates held by regional facility authority in regional jails operated solely by the authority; authorization to establish smoking cessation program.

[Repealed.]

§31-20-5c. Additional powers and duties of the authority; juvenile detention facilities.

[Repealed.]

§31-20-5d. Good-time credit.

[Repealed.]

§31-20-5e. Monitoring of inmate telephone calls and electronic communications; procedures and restrictions; attorney-client privilege protected and exempted.

[Repealed.].

§31-20-5f. Charges assessed against inmates for services provided by the authority.

[Repealed.]

§31-20-5g. Pretrial risk assessment.

[Repealed.].

§31-20-5h. Programs for inmates committed to prison.

[Repealed.].

§31-20-8. Jail facilities standards commission; appointment; compensation; vacancies; quorum.

[Repealed.].

§31-20-8a. Juvenile facilities standards commission; appointment; compensation; vacancies; quorum.

[Repealed.]

§31-20-9. Jail facilities standards commission: Purpose, powers and duties.

[Repealed.].

§31-20-9a. Juvenile facilities standards commission; purpose; powers; and duties.

[Repealed.].

§31-20-10. Regional jail and correctional facility authority funds.

[Repealed.].

§31-20-10a. Criteria and procedures for determining the cost per day for inmates incarcerated in facilities operated by the authority and allocating cost.

[Repealed.]

§31-20-10b. Regional Jail Operations Partial Reimbursement Fund.

[Repealed.]

§31-20-11. Borrowing of money.

[Repealed.]

§31-20-12. Notes, security interests and bonds as general obligations of authority.

[Repealed.]

§31-20-13. Notes, security interests and bonds as negotiable instruments.

[Repealed.]

§31-20-14. Authorizing resolutions.

[Repealed.]

§31-20-15. Redemption of notes, security interests or bonds.

[Repealed.]

§31-20-20. Authorized limit on borrowing.

[Repealed.]

§31-20-22. Money of the authority.

[Repealed.]

§31-20-23. Conflict of interest; when contracts void.

[Repealed.]

§31-20-24. Agreement with federal agencies not to alter or limit powers of authority.

[Repealed.].

§31-20-27. Correctional officers; regional jails; priority of hiring.

[Repealed.].

§31-20-27a. Regional jail employees right to carry firearm; arrest authority of correctional officers.

[Repealed.]

§31-20-28. Limitations on contracts for sale of bonds or other securities.

[Repealed.]

§31-20-29. Furlough program.

[Repealed.]

§31-20-30. Limitation on reimbursement rate to medical service providers for services outside regional jail facilities.

[Repealed.]

§31-20-30a. Mechanical restraints during pregnancy.

[Repealed.].

§31-20-31. Work program.

[Repealed.].

§31-20-32. Jail processing fee.

[Repealed.].

CHAPTER 50. MAGISTRATE COURTS.**ARTICLE 3. COSTS, FINES AND RECORDS.****§50-3-2. Costs in criminal proceedings.**

(a) In each criminal case before a magistrate court in which the defendant is convicted, whether by plea or at trial, there is imposed, in addition to other costs, fines, forfeitures or penalties as may be allowed by law: (1) Costs in the amount of \$60, of which \$5 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code; (2) an amount equal to the one-day per diem provided for in ~~subsection (h), section ten, article twenty, chapter thirty one~~ §15A-3-16(g) of this code; and (3) costs in the amount of \$30 to be deposited in the Regional Jail Operations Partial Reimbursement Fund created by ~~section ten b of said article~~ §15A-3-16 of this code. A magistrate may not collect costs in advance. Notwithstanding any other provision of this code, a person liable for fines and court costs in a criminal proceeding in which the defendant is confined in a jail or prison and not participating in a work release program shall not be held liable for the fines and court costs until one hundred eighty days after completion of the term in jail or prison. A magistrate court shall deposit \$5 from each of the criminal proceedings fees collected pursuant to this section in the Court Security Fund created in section fourteen, article three, chapter fifty-one of this code. A magistrate court shall, on or before the tenth day of the month following the month in which the fees imposed in this section were collected, remit an amount equal to the one-day per diem provided for in ~~subsection (h), section ten, article twenty, chapter thirty one~~ §15A-3-16(g) of this code from each of the criminal proceedings in which the fees specified in this section were collected to the magistrate court clerk, or if there is no magistrate court clerk to the clerk of the circuit, together with information as may be required by the rules of the Supreme Court of Appeals and the rules of the Office of Chief Inspector. These moneys are paid to the sheriff who shall distribute the moneys solely in accordance with the provisions of section fifteen, article five, chapter seven of this code.

Amendments made to this section during the 2001 regular session of the Legislature, are effective after June 30, 2001.

(b) A magistrate shall assess costs in the amount of \$2.50 for issuing a sheep warrant and the appointment and swearing appraisers and docketing the proceedings.

(c) In each criminal case which must be tried by the circuit court but in which a magistrate renders some service, costs in the amount of \$10 shall be imposed by the magistrate court and is certified to the clerk of the circuit court in accordance with the provisions of section six, article five, chapter sixty-two of this code.

§50-3-4a. Disposition of criminal costs and civil filing fees into State Treasury account for Regional Jail and Prison Development Fund.

(a) The clerk of each magistrate court shall, at the end of each month, pay into the Regional Jail and Prison Development Fund in the state Treasury an amount equal to \$40 of the costs collected in each criminal proceeding and all but \$10 of the costs collected for the filing of each civil action.

(b) The clerk of each magistrate court shall, at the end of each month, pay into the Regional Jail Operations Partial Reimbursement Fund established in ~~section ten-a, article twenty, chapter thirty-one~~ §15A-3-17 of this code the fees collected pursuant to subsection (g), section one and subdivision (3), subsection (a), section two of this article.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-14. Appointment of probation and parole officers and clerical assistants; qualifications of officers; salaries and expenses.

[Repealed.].

§62-12-14a. Director of employment; director of housing; released inmates; duties.

[Repealed.]

§62-12-15. Powers and duties of state parole officers.

[Repealed.]

§62-12-25. Parole supervision benefit fund.

[Repealed.]

ARTICLE 13. CORRECTIONS MANAGEMENT.

§62-13-3. Appointment and qualifications of director.

[Repealed.]

§62-13-4. Powers and duties of commissioner or director generally; compensation and funds of inmates.

[Repealed.]

§62-13-5. Commitments; transfers.

[Repealed.]

§62-13-6a. Payment of jail fees to county commissions.

[Repealed.]

On motion of Senator Clements, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 4338) were reported by the Clerk and considered simultaneously:

On page twenty-three, section sixteen, subsection (i), by striking out the word "January" and inserting in lieu thereof the word "July";

And,

On page sixty-six, section five, subsection (d), subdivision (2), by striking out “§20-1A-4 and §20-1A-5” and inserting in lieu thereof “§5A-11-4 and §5A-11-5”.

Following discussion,

The question being on the adoption of Senator Clements’ amendments to the Government Organization committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Government Organization committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4338), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4350, Eliminating the regulation of upholstery.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Government Organization committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 4389, Expiring funds to the Enterprise Resource Planning System Fund.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

By striking out everything after the title and inserting in lieu thereof the following:

WHEREAS, The Governor finds that the account balances in the Auditor’s Office – Securities Regulation Fund, fund 1225,

fiscal year 2018, organization 1200, and in the Treasurer's Office, Banking Services Expense Fund, fund 1322, fiscal year 2018, organization 1300 exceed that which is necessary for the purposes for which the accounts were established; therefore

Be it enacted by the Legislature of West Virginia:

That the balance of funds available for expenditure in the fiscal year ending June 30, 2018, to the Auditor's Office – Securities Regulation Fund, fund 1225, fiscal year 2018, organization 1200, be decreased by expiring the amount of \$1,133,000, and to the Treasurer's Office, Banking Services Expense Fund, fund 1322, fiscal year 2018, organization 1300 be decreased by expiring the amount of \$1,133,000 to the West Virginia Enterprise Resource Planning Board - Enterprise Resource Planning System Fund, fund 9080, fiscal year 2018, organization 0947, and the balance of funds available for expenditure in the fiscal year ending June 30, 2018, to the Auditor's Office – Securities Regulation Fund, fund 1225, fiscal year 2018, organization 1200, be decreased by expiring the amount of \$1,500,000 to the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund ****, fiscal year 2018, organization 0804 to be available for expenditure during the fiscal year ending June 30, 2018.

And, chapter one, Acts of the Legislature, 1st extraordinary session, 2017, known as the budget bill, be supplemented and amended by adding to Title II, section three thereof, the following:

TITLE II – APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF TRANSPORTATION.

259a– State Rail Authority

West Virginia Commuter Rail Access Fund

(WV Code Chapter 29)

Fund **** FY 2018 Org 0804

| | Appropriation | Other Funds |
|--------------------------|----------------------|--------------------|
| 1 Current Expenses | 13000 | \$ 1,500,000 |

The bill (H. B. 4389), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4392, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Health and Human Resources, were reported by the Clerk and considered simultaneously:

On page three, section eleven, lines thirty through thirty-two, by striking out all of subdivision (6) and inserting in lieu thereof a new subdivision, designated subdivision (6), to read as follows:

(6) The department shall have a priority right to be paid first out of any payments made to the recipient for past medical expenses before the recipient can recover any of his or her own costs for medical care.;

On page four, section eleven, lines fifty-four through fifty-six, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

(5) When determined by the department to be cost effective, the secretary or his or her designee may, in his or her sole discretion, negotiate for a reduction in the lien in an amount sufficient to incentivize Medicaid members to settle claims against liable third parties.;

And,

On page five, section eleven, lines ninety through ninety-five, by striking out all of paragraph (B) and inserting in lieu thereof a new paragraph, designated paragraph (B), to read as follows:

(B) The department shall have the burden of proving by a preponderance of the evidence that the allocation agreed to by the parties is proper. The trial court shall give due consideration to the department's interest in being fairly reimbursed for purposes of the operation of the Medicaid program. The trial court's decision should be set forth in a detailed order containing the requisite findings of fact and conclusions of law to support its rulings.

Following discussion,

The question being on the adoption of the Health and Human Resources committee amendments to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4392), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4394, Relating to forest fires.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 3. FORESTS AND WILDLIFE AREAS.

§20-3-5. Forest fire seasons; prohibited and permissible fires; burning permits and fees; fire control measures; criminal and civil penalties.

(a) *Forest fire seasons.* — March 1 through May 31, and October 1 through December 31 are designated as forest fire seasons. During any fire season, a person may set on fire or cause to be set on fire any forest land, or any grass, grain, stubble, slash,

debris, or other inflammable materials only between 5 p.m. and 7 a.m., at which time the fire must be extinguished.

(b) *Permissible fires during forest fire seasons.* — The following attended fires are permitted during forest fire season as set forth in subsection (a) of this section without a burning permit unless there is a burning ban in effect:

(1) Small fires set for the purpose of food preparation, or providing light or warmth around which all grass, brush, stubble, or other debris has been removed for a distance of 10 feet from the fire; and

(2) Burning conducted at any time when the ground surrounding the burning site is covered by one inch or more of snow.

(c) *Burning permits.* — The director or his or her designee may issue burning permits authorizing fires during forest fire seasons as set forth in subsection (a) of this section that are otherwise prohibited by this section. The permits shall state the requisite conditions and time frame to prevent danger from the fire to life or property: *Provided*, That the director or his or her designee shall take final action upon all completed permit applications within 30 days of receipt if the application is uncontested, or within 90 days if the application is contested.

(1) *Permit fees.* — Entities required to pay a permit fee are those engaged in commercial, manufacturing, public utility, mining, and like activities. Agricultural activities are exempt from paying the permit fee. The permit fee is \$125 per site and shall be deposited into the Division of Forestry Fund (3081) to be used to administer the provisions of this section. The permit fee covers the fire season during which it is issued.

(2) Noncompliance with any condition of the permit is a violation of this section. Any permit which was obtained through willful misrepresentation is invalid and violates this section.

(3) Permit holders shall take all necessary and adequate precautions to confine and control fires authorized by the permit.

Failure to take action is a violation of this section and is justification for the director to revoke the permit.

(d) *Fire control.* —

(1) With approval of the Governor, the director may prohibit the starting of and require the extinguishment of fire in any designated area, including fires permitted by this section.

(2) With approval of the Governor, the director may designate any forest area as a danger area, prohibit entry, and declare conditional uses and prohibited areas of the forest by proclamation at any time of the year. The proclamation shall be furnished to newspapers, radio stations, and television stations that serve the designated area and ~~shall become~~ becomes effective after 24 hours. The proclamation remains in effect until the director, with the approval of the Governor, terminates it. The order shall designate the time of termination, and notice of the order shall be furnished to each newspaper, radio station, and television station that received a copy of the proclamation.

~~(3) Burning is not permitted by this section until all inflammable material has been removed from around the material to be burned and a safety strip of at least ten feet is established to ensure that the fire will not escape~~ A person shall remove all flammable material from the area immediately surrounding the material to be burned for a distance which ensures the fire will at all times be contained; this safety strip shall in no event be less than 10 feet wide. Any person or his or her agent or employee who sets or causes to be set any fire which escapes the safety strip and causes damage to the lands of another is guilty of a misdemeanor.

(e) Criminal and civil penalties. — A person or entity that violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than \$100 and not more than \$1,000 for each violation. In addition to fines and costs, a person or entity convicted of a violation of this section shall pay a \$200 civil penalty to the division within 60 days. The civil penalty shall be collected by the court in which the person is convicted and

forwarded to the division and deposited in the Division of Forestry Fund (3081) to be used to administer the provisions of this section.

§20-3-5a. Prescribed Fire Program.

(a) As used in this section:

(1) “Certified prescribed fire manager” means an employee of the Division of Forestry, the Division of Natural Resources, or any federal employee who has successfully completed a certification process established by the director.

(2) “Prescribed fire” means the controlled application of fire or wildland fuels in wildlife management areas, state forests or federal lands in either the natural or modified state, under specified environmental conditions, which allows the fire to be confined to a predetermined area and produces the fire behavior and fire characteristics necessary to attain planned fire treatment and ecological, silvicultural, and wildlife management objectives.

(3) “Prescription” means a written statement defining the objectives to be attained by a prescribed fire and the conditions of temperature, humidity, wind direction and speed, fuel moisture, and soil moisture under which a fire will be allowed to burn. A prescription is generally expressed as an acceptable range of the prescription elements.

(b) *Director certification process.* — The director shall develop and administer a certification process and prescribed burn course for any individual who desires to become a certified prescribed fire manager. The prescribed fire course shall include the following subjects: the legal aspects of prescribed fire, fire behavior, prescribed fire tactics, smoke management, environmental effects, plan preparation, and safety. The director shall give a final examination on these subjects to all attendees. The director may charge a reasonable fee to cover the costs of the prescribed fire course and the examination.

(c) To be certified as a certified prescribed fire manager, a person shall:

(1) Successfully complete all components of the prescribed fire course developed by the director and pass the examination developed for the course;

(2) Successfully complete a prescribed fire course comparable to that developed by the director and pass the examination developed for the course; or

(3) Demonstrate relevant past experience, complete a review course and pass the examination developed for the prescribed fire course.

(d) Prescribed burning shall be performed in the following manner:

(1) A certified prescribed fire manager shall prepare a prescription for the prescribed fire prior to the burn. The prescription shall include: (A) The landowner's name, address, and telephone number, and the telephone number of the certified prescribed fire manager who prepared the plan; (B) a description of the area to be burned, a map of the area to be burned, the objectives of the prescribed fire, and the desired weather conditions or parameters; (C) a summary of the methods to be used to start, control, and extinguish the prescribed fire; and (D) a smoke management plan. The smoke management plan shall conform to the Department of Environmental Protection's rule, Control of Air Pollution from Combustion of Refuse, 45 CSR 6. A copy of the prescription shall be retained at the site throughout the period of the burning;

(2) A certified prescribed fire manager shall directly supervise a prescribed fire and ensure that the prescribed fire is in accordance with the prescription; and

(3) The certified prescribed fire manager shall notify the nearest regional office of the division 24 hours prior to the prescribed fire.

(e) If the actions of any certified prescribed fire manager or the prescriptions prepared by him or her violate any provision of this article, state air pollution control laws, the Division of Forestry

rules, the Department of Environmental Protection rules or laws, or threaten public health and safety, the director may revoke his or her certification.

(f) The director shall propose rules for promulgation in accordance with the provisions of §29A-3-1 et seq. of this code for establishing the procedures for the development of a certification program for prescribed fire managers.

The bill (Eng. Com. Sub. for H. B. 4394), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4424, Providing that the Ethics Act applies to certain persons providing services without pay to state elected officials.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 1. SHORT TITLE; LEGISLATIVE FINDINGS, PURPOSES AND INTENT; CONSTRUCTION AND APPLICATION OF CHAPTER; SEVERABILITY.

§6B-1-3. Definitions.

As used in this chapter, unless the context in which used clearly requires otherwise:

(a) “Review Board” means the Probable Cause Review Board created by §6B-2-2a of this code.

(b) “Business” means any entity through which business for-profit is conducted including a corporation, partnership, proprietorship, franchise, association, organization, or self-employed individual.

(c) “Compensation” means money, thing of value, or financial benefit. The term “compensation” does not include reimbursement for actual reasonable and necessary expenses incurred in the performance of one’s official duties.

(d) “Employee” means any person in the service of another under any contract of hire, whether express or implied, oral, or written, where the employer or an agent of the employer or a public official has the right or power to control and direct such person in the material details of how work is to be performed and who is not responsible for the making of policy nor for recommending official action.

(e) “Ethics Commission” or “commission” means the West Virginia Ethics Commission.

(f) “Immediate family”, with respect to an individual, means a spouse with whom the individual is living as husband and wife and any dependent child or children, dependent grandchild or grandchildren, and dependent parent or parents.

(g) “Ministerial functions” means actions or functions performed by an individual under a given state of facts in a prescribed manner in accordance with a mandate of legal authority, without regard to, or without the exercise of, the individual’s own judgment as to the propriety of the action being taken.

(h) “Person” means an individual, corporation, business entity, labor union, association, firm, partnership, limited partnership, committee, club, or other organization or group of persons, irrespective of the denomination given such organization or group.

(i) “Political contribution” means and has the same definition as is given that term under the provisions of §3-8-1 et seq. of this code.

(j) “Public employee” means any full-time or part-time employee of any state, county or municipal governmental body or any political subdivision thereof, including county school boards.

(k) “Public official” means any person who is elected or appointed to, appointed to, or given the authority to act in any state, county, or municipal office or position, whether compensated or not, and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating, or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person. The term “public official” includes a public servant volunteer.

(l) “Public servant volunteer” means any person who, without compensation, performs services on behalf of a public official and who is granted or vested with powers, privileges, or authorities ordinarily reserved to public officials.

(h) (m) “Relative” means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law.

(m) (n) “Respondent” means a person who is the subject of an investigation by the commission or against whom a complaint has been filed with the commission.

(n) (o) “Thing of value”, “other thing of value,” or “anything of value” means and includes: (1) Money, bank bills, or notes, United States treasury notes and other bills, bonds or notes issued by lawful authority and intended to pass and circulate as money; (2) goods and chattels; (3) promissory notes, bills of exchange, orders, drafts, warrants, checks, bonds given for the payment of money, or the forbearance of money due or owing; (4) receipts given for the payment of money or other property; (5) any right or chose in action; (6) chattels real or personal or things which savor of realty and are, at the time taken, a part of a freehold, whether they are of the substance or produce thereof or affixed thereto, although there may be no interval between the severing and the taking away thereof; (7) any interest in realty, including, but not

limited to, fee simple estates, life estates, estates for a term or period of time, joint tenancies, cotenancies, tenancies in common, partial interests, present or future interests, contingent or vested interests, beneficial interests, leasehold interests, or any other interest or interests in realty of whatsoever nature; (8) any promise of employment, present or future; (9) donation or gift; (10) rendering of services or the payment thereof; (11) any advance or pledge; (12) a promise of present or future interest in any business or contract or other agreement; or (13) every other thing or item, whether tangible or intangible, having economic worth. "Thing of value", "other thing of value" or "anything of value" shall not include anything which is de minimis in nature nor a lawful political contribution reported as required by law.

**ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION;
POWERS AND DUTIES; DISCLOSURE OF FINANCIAL
INTEREST BY PUBLIC OFFICIALS AND EMPLOYEES;
APPEARANCES BEFORE PUBLIC AGENCIES; CODE
OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES.**

**§6B-2-5. Ethical standards for elected and appointed officials
and public employees.**

(a) *Persons subject to section.* — The provisions of this section apply to all ~~elected and appointed~~ public officials and public employees, whether full or part-time and whether compensated or not, in state, county, municipal governments and their respective boards, agencies, departments, and commissions and in any other regional or local governmental agency, including county school boards.

(b) *Use of public office for private gain.* — (1) A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the

office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

(2) Notwithstanding the general prohibition against use of office for private gain, public officials and public employees may use bonus points acquired through participation in frequent traveler programs while traveling on official government business: Provided, That the official's or employee's participation in such program, or acquisition of such points, does not result in additional costs to the government.

(3) The Legislature, in enacting this subsection, recognizes that there may be certain public officials or public employees who bring to their respective offices or employment their own unique personal prestige which is based upon their intelligence, education, experience, skills and abilities, or other personal gifts or traits. In many cases, these persons bring a personal prestige to their office or employment which inures to the benefit of the state and its citizens. Those persons may, in fact, be sought by the state to serve in their office or employment because, through their unusual gifts or traits, they bring stature and recognition to their office or employment and to the state itself. While the office or employment held or to be held by those persons may have its own inherent prestige, it would be unfair to those individuals and against the best interests of the citizens of this state to deny those persons the right to hold public office or to be publicly employed on the grounds that they would, in addition to the emoluments of their office or employment, be in a position to benefit financially from the personal prestige which otherwise inheres to them. Accordingly, the commission is directed, by legislative rule, to establish categories of public officials and public employees, identifying them generally by the office or employment held, and offering persons who fit within those categories the opportunity to apply for an exemption from the application of the provisions of this subsection. Exemptions may be granted by the commission, on a case-by-case basis, when it is shown that: (A) The public office held or the public employment engaged in is not such that it would ordinarily be available or offered to a substantial number of the

citizens of this state; (B) the office held or the employment engaged in is such that it normally or specifically requires a person who possesses personal prestige; and (C) the person's employment contract or letter of appointment provides or anticipates that the person will gain financially from activities which are not a part of his or her office or employment.

(4) A public official or public employee may not show favoritism or grant patronage in the employment or working conditions of his or her relative or a person with whom he or she resides: *Provided*, That as used in this subdivision, "employment or working conditions" shall only apply to government employment: *Provided, however*, That government employment includes only those governmental entities specified in subsection (a) of this section.

(c) *Gifts*. — (1) A public official or public employee may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the official or employee or his or her immediate family: *Provided*, That no public official or public employee may solicit for a charitable purpose any gift from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee: *Provided, however*, That nothing herein shall prohibit a candidate for public office from soliciting a lawful political contribution. No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

(A) Is doing or seeking to do business of any kind with his or her agency;

(B) Is engaged in activities which are regulated or controlled by his or her agency; or

(C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person who is a public official or public employee may accept a gift described in this subdivision, and there shall be a presumption that the receipt of such gift does not impair the impartiality and independent judgment of the person. This presumption may be rebutted only by direct objective evidence that the gift did impair the impartiality and independent judgment of the person or that the person knew or had reason to know that the gift was offered with the intent to impair his or her impartiality and independent judgment. The provisions of subdivision (1) of this subsection do not apply to:

(A) Meals and beverages;

(B) Ceremonial gifts or awards which have insignificant monetary value;

(C) Unsolicited gifts of nominal value or trivial items of informational value;

(D) Reasonable expenses for food, travel, and lodging of the official or employee for a meeting at which the official or employee participates in a panel or has a speaking engagement;

(E) Gifts of tickets or free admission extended to a public official or public employee to attend charitable, cultural, or political events, if the purpose of such gift or admission is a courtesy or ceremony customarily extended to the office;

(F) Gifts that are purely private and personal in nature; or

(G) Gifts from relatives by blood or marriage, or a member of the same household.

(3) The commission shall, through legislative rule promulgated pursuant to chapter 29A of this code, establish guidelines for the acceptance of a reasonable honorarium by public officials and elected officials. The rule promulgated shall be consistent with this section. Any elected public official may accept an honorarium only when:

(A) That official is a part-time elected public official;

(B) The fee is not related to the official's public position or duties;

(C) The fee is for services provided by the public official that are related to the public official's regular, nonpublic trade, profession, occupation, hobby, or avocation; and

(D) The honorarium is not provided in exchange for any promise or action on the part of the public official.

(4) Nothing in this section shall be construed so as to prohibit the giving of a lawful political contribution as defined by law.

(5) The Governor or his designee may, in the name of the State of West Virginia, accept and receive gifts from any public or private source. Any gift so obtained shall become the property of the state and shall, within 30 days of the receipt thereof, be registered with the commission and the Division of Culture and History.

(6) Upon prior approval of the Joint Committee on Government and Finance, any member of the Legislature may solicit donations for a regional or national legislative organization conference or other legislative organization function to be held in the state for the purpose of deferring costs to the state for hosting of the conference or function. Legislative organizations are bipartisan regional or national organizations in which the Joint Committee on Government and Finance authorizes payment of dues or other membership fees for the Legislature's participation and which assist this and other State Legislatures and their staff through any of the following:

(A) Advancing the effectiveness, independence, and integrity of Legislatures in the states of the United States;

(B) Fostering interstate cooperation and facilitating information exchange among State Legislatures;

(C) Representing the states and their Legislatures in the American federal system of government;

(D) Improving the operations and management of State Legislatures and the effectiveness of legislators and legislative staff, and to encourage the practice of high standards of conduct by legislators and legislative staff;

(E) Promoting cooperation between State Legislatures in the United States and Legislatures in other countries.

The solicitations may only be made in writing. The legislative organization may act as fiscal agent for the conference and receive all donations. In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the Legislature may not be used by the legislative member in conjunction with the fund raising or solicitation effort. The legislative organization for which solicitations are being made shall file with the Joint Committee on Government and Finance and with the Secretary of State for publication in the State Register as provided in §29A-2-1 *et seq.* of this code, copies of letters, brochures, and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a legislative member shall contain the following disclaimer:

“This solicitation is endorsed by [name of member]. This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. A copy of all solicitations are on file with the West Virginia Legislature’s Joint Committee on Government and Finance, and with the Secretary of State and are available for public review.”

(7) Upon written notice to the commission, any member of the board of Public Works may solicit donations for a regional or national organization conference or other function related to the office of the member to be held in the state for the purpose of deferring costs to the state for hosting of the conference or function. The solicitations may only be made in writing. The organization may act as fiscal agent for the conference and receive all donations.

In the alternative, a bona fide banking institution may act as the fiscal agent. The official letterhead of the office of the Board of Public Works member may not be used in conjunction with the fund raising or solicitation effort. The organization for which solicitations are being made shall file with the Joint Committee on Government and Finance, with the Secretary of State for publication in the State Register as provided in §29A-2-1 *et seq.* of this code and with the commission, copies of letters, brochures, and other solicitation documents, along with a complete list of the names and last known addresses of all donors and the amount of donations received. Any solicitation by a member of the board of Public Works shall contain the following disclaimer: "This solicitation is endorsed by (name of member of Board of Public Works.) This endorsement does not imply support of the soliciting organization, nor of the sponsors who may respond to the solicitation. Copies of all solicitations are on file with the West Virginia Legislature's Joint Committee on Government and Finance, with the West Virginia Secretary of State and with the West Virginia Ethics Commission and are available for public review." Any moneys in excess of those donations needed for the conference or function shall be deposited in the Capitol Dome and Capitol Improvement Fund established in §5A-4-2 *et seq.* of this code.

(d) Interests in public contracts. —

(1) In addition to the provisions of §61-10-15 of this code, no elected or appointed public official or public employee or member of his or her immediate family or business with which he or she is associated may be a party to or have an interest in the profits or benefits of a contract which the official or employee may have direct authority to enter into, or over which he or she may have control: *Provided*, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body: *Provided, however*, That nothing herein shall be construed to prohibit a member of the Legislature from entering into a contract with any governmental body, or prohibit a part-time appointed public official from entering into a contract which the part-time appointed public official may have direct authority to

enter into or over which he or she may have control when the official has not participated in the review or evaluation thereof, has been recused from deciding or evaluating and has been excused from voting on the contract and has fully disclosed the extent of his or her interest in the contract.

(2) In the absence of bribery or a purpose to defraud, an elected or appointed public official or public employee or a member of his or her immediate family or a business with which he or she is associated shall not be considered as having a prohibited financial interest in a public contract when such a person has a limited interest as an owner, shareholder, or creditor of the business which is awarded a public contract. A limited interest for the purposes of this subsection is:

(A) An interest which does not exceed \$1,000 in the profits or benefits of the public contract or contracts in a calendar year;

(B) An interest as a creditor of a public employee or official who exercises control over the contract, or a member of his or her immediate family, if the amount is less than \$5,000.

(3) If a public official or employee has an interest in the profits or benefits of a contract, then he or she may not make, participate in making, or in any way attempt to use his office or employment to influence a government decision affecting his or her financial or limited financial interest. Public officials shall also comply with the voting rules prescribed in subsection (j) of this section.

(4) Where the provisions of subdivisions (1) and (2) of this subsection would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship, or other substantial interference with the operation of a state, county, municipality, county school board, or other governmental agency, the affected governmental body or agency may make written application to the Ethics Commission for an exemption from subdivisions (1) and (2) of this subsection.

(e) *Confidential information.* — No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his

or her official duties nor use such information to further his or her personal interests or the interests of another person.

(f) *Prohibited representation.* — No present or former elected or appointed public official or public employee shall, during or after his or her public employment or service, represent a client or act in a representative capacity with or without compensation on behalf of any person in a contested case, rate-making proceeding, license or permit application, regulation filing or other particular matter involving a specific party or parties which arose during his or her period of public service or employment and in which he or she personally and substantially participated in a decision-making, advisory or staff support capacity, unless the appropriate government agency, after consultation, consents to such representation. A staff attorney, accountant or other professional employee who has represented a government agency in a particular matter shall not thereafter represent another client in the same or substantially related matter in which that client's interests are materially adverse to the interests of the government agency, without the consent of the government agency: *Provided*, That this prohibition on representation shall not apply when the client was not directly involved in the particular matter in which the professional employee represented the government agency, but was involved only as a member of a class. The provisions of this subsection shall not apply to legislators who were in office and legislative staff who were employed at the time it originally became effective on July 1, 1989, and those who have since become legislators or legislative staff and those who shall serve hereafter as legislators or legislative staff.

(g) *Limitation on practice before a board, agency, commission or department.* — Except as otherwise provided in §8A-2-3, §8A-2-4, or §8A-2-5 of this code: (1) No elected or appointed public official and no full-time staff attorney or accountant shall, during his or her public service or public employment or for a period of one year after the termination of his or her public service or public employment with a governmental entity authorized to hear contested cases or promulgate or propose rules, appear in a representative capacity before the governmental entity in which he

or she serves or served or is or was employed in the following matters:

(A) A contested case involving an administrative sanction, action or refusal to act;

(B) To support or oppose a proposed rule;

(C) To support or contest the issuance or denial of a license or permit;

(D) A rate-making proceeding; and

(E) To influence the expenditure of public funds.

(2) As used in this subsection, “represent” includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person: *Provided*, That nothing contained in this subsection shall prohibit, during any period, a former public official or employee from being retained by or employed to represent, assist or act in a representative capacity on behalf of the public agency by which he or she was employed or in which he or she served. Nothing in this subsection shall be construed to prevent a former public official or employee from representing another state, county, municipal, or other governmental entity before the governmental entity in which he or she served or was employed within one year after the termination of his or her employment or service in the entity.

(3) A present or former public official or employee may appear at any time in a representative capacity before the Legislature, a county commission, city or town council, or county school board in relation to the consideration of a statute, budget, ordinance, rule, resolution, or enactment.

(4) Members and former members of the Legislature and professional employees and former professional employees of the Legislature shall be permitted to appear in a representative capacity on behalf of clients before any governmental agency of the state or of county or municipal governments, including county school boards.

(5) An elected or appointed public official, full-time staff attorney or accountant who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the one year prohibition against appearing in a representative capacity, when the person's education and experience is such that the prohibition would, for all practical purposes, deprive the person of the ability to earn a livelihood in this state outside of the governmental agency. The Ethics Commission shall, by legislative rule, establish general guidelines or standards for granting an exemption or reducing the time period, but shall decide each application on a case-by-case basis.

(h) Employment by regulated persons and vendors. — (1) No full-time official or full-time public employee may seek employment with, be employed by, or seek to purchase, sell or lease real or personal property to or from any person who:

(A) Had a matter on which he or she took, or a subordinate is known to have taken, regulatory action within the preceding 12 months; or

(B) Has a matter before the agency on which he or she is working or a subordinate is known by him or her to be working.

(C) Is a vendor to the agency where the official serves or public employee is employed and the official or public employee, or a subordinate of the official or public employee, exercises authority or control over a public contract with such vendor, including, but not limited to:

(i) Drafting bid specifications or requests for proposals;

(ii) Recommending selection of the vendor;

(iii) Conducting inspections or investigations;

(iv) Approving the method or manner of payment to the vendor;

(v) Providing legal or technical guidance on the formation, implementation or execution of the contract; or

(vi) Taking other nonministerial action which may affect the financial interests of the vendor.

(2) Within the meaning of this section, the term “employment” includes professional services and other services rendered by the public official or public employee, whether rendered as employee or as an independent contractor; “seek employment” includes responding to unsolicited offers of employment as well as any direct or indirect contact with a potential employer relating to the availability or conditions of employment in furtherance of obtaining employment; and “subordinate” includes only those agency personnel over whom the public official or public employee has supervisory responsibility.

(3) A full-time public official or full-time public employee who would be adversely affected by the provisions of this subsection may apply to the Ethics Commission for an exemption from the prohibition contained in subdivision (1) of this subsection.

(A) The Ethics Commission shall, by legislative rule, establish general guidelines or standards for granting an exemption, but shall decide each application on a case-by-case basis;

(B) A person adversely affected by the restriction on the purchase of personal property may make such purchase after seeking and obtaining approval from the commission or in good faith reliance upon an official guideline promulgated by the commission, written advisory opinions issued by the commission, or a legislative rule.

(C) The commission may establish exceptions to the personal property purchase restrictions through the adoption of guidelines, advisory opinions or legislative rule.

(4) A full-time public official or full-time public employee may not take personal regulatory action on a matter affecting a person by whom he or she is employed or with whom he or she is seeking employment or has an agreement concerning future employment.

(5) A full-time public official or full-time public employee may not personally participate in a decision, approval, disapproval,

recommendation, rendering advice, investigation, inspection, or other substantial exercise of nonministerial administrative discretion involving a vendor with whom he or she is seeking employment or has an agreement concerning future employment.

(6) A full-time public official or full-time public employee may not receive private compensation for providing information or services that he or she is required to provide in carrying out his or her public job responsibilities.

(i) *Members of the Legislature required to vote.* — Members of the Legislature who have asked to be excused from voting or who have made inquiry as to whether they should be excused from voting on a particular matter and who are required by the presiding officer of the House of Delegates or Senate of West Virginia to vote under the rules of the particular house shall not be guilty of any violation of ethics under the provisions of this section for a vote so cast.

(j) *Limitations on voting.* —

(1) Public officials, excluding members of the Legislature who are governed by subsection (i) of this section, may not vote on a matter:

(A) In which they, an immediate family member, or a business with which they or an immediate family member is associated have a financial interest. Business with which they are associated means a business of which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class.

(B) If a public official is employed by a financial institution and his or her primary responsibilities include consumer and commercial lending, the public official may not vote on a matter which directly affects the financial interests of a customer of the financial institution if the public official is directly involved in approving a loan request from the person or business appearing before the governmental body or if the public official has been

directly involved in approving a loan for that person or business within the past 12 months: *Provided*, That this limitation only applies if the total amount of the loan or loans exceeds \$15,000.

(C) The employment or working conditions of the public official's relative or person with whom the public official resides.

(D) The appropriations of public moneys or the awarding of a contract to a nonprofit corporation if the public official or an immediate family member is employed by, or a compensated officer or board member of, the nonprofit: *Provided*, That if the public official or immediate family member is an uncompensated officer or board member of the nonprofit, then the public official shall publicly disclose such relationship prior to a vote on the appropriations of public moneys or award of contract to the nonprofit; *Provided, however*, That for purposes of this paragraph, public disclosure shall mean disclosure of the public official's, or his or her immediate family member's, relationship to the nonprofit (i) on the agenda item relating to the appropriation or award contract, if known at time of agenda, (ii) by the public official at the meeting prior to the vote, and (iii) in the minutes of the meeting.

(2) A public official may vote:

(A) If the public official, his or her spouse, immediate family members or relatives or business with which they are associated are affected as a member of, and to no greater extent than any other member of a profession, occupation, class of persons or class of businesses. A class shall consist of not fewer than five similarly situated persons or businesses; or

(B) If the matter affects a publicly traded company when:

(i) The public official, or dependent family members individually or jointly own less than five percent of the issued stock in the publicly traded company and the value of the stocks individually or jointly owned is less than \$10,000; and

(ii) Prior to casting a vote the public official discloses his or her interest in the publicly traded company.

(3) For a public official's recusal to be effective, it is necessary to excuse him or herself from participating in the discussion and decision-making process by physically removing him or herself from the room during the period, fully disclosing his or her interests, and recusing him or herself from voting on the issue. The recusal shall also be reflected in the meeting minutes.

(k) *Limitations on participation in licensing and rate-making proceedings.* — No public official or employee may participate within the scope of his or her duties as a public official or employee, except through ministerial functions as defined in §6B-1-3 of this code, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation, or association in which the public official or employee or his or her immediate family owns or controls more than 10 percent. No public official or public employee may participate within the scope of his or her duties as a public official or public employee, except through ministerial functions as defined §6B-1-3 of this code, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or public employee or his or her immediate family, or a partnership, trust, business trust, corporation or association of which the public official or employee, or his or her immediate family, owns or controls more than 10 percent, has sold goods or services totaling more than \$1,000 during the preceding year, unless the public official or public employee has filed a written statement acknowledging such sale with the public agency and the statement is entered in any public record of the agency's proceedings. This subsection shall not be construed to require the disclosure of clients of attorneys or of patients or clients of persons licensed pursuant to §30-3-1 *et seq.*, §30-8-1 *et seq.*, §30-14-1 *et seq.*, §30-14A-1 *et seq.*, §30-15-1 *et seq.*, §30-16-1 *et seq.*, §30-20-1 *et seq.*, §30-21-1 *et seq.*, or §30-31-1 *et seq.* of this code.

(l) *Certain compensation prohibited.* — (1) A public employee may not receive additional compensation from another publicly-funded state, county, or municipal office or employment for working the same hours, unless:

(A) The public employee's compensation from one public employer is reduced by the amount of compensation received from the other public employer;

(B) The public employee's compensation from one public employer is reduced on a pro rata basis for any work time missed to perform duties for the other public employer;

(C) The public employee uses earned paid vacation, personal or compensatory time or takes unpaid leave from his or her public employment to perform the duties of another public office or employment; or

(D) A part-time public employee who does not have regularly scheduled work hours or a public employee who is authorized by one public employer to make up, outside of regularly scheduled work hours, time missed to perform the duties of another public office or employment maintains time records, verified by the public employee and his or her immediate supervisor at least once every pay period, showing the hours that the public employee did, in fact, work for each public employer. The public employer shall submit these time records to the Ethics Commission on a quarterly basis.

(2) This section does not prohibit a retired public official or public employee from receiving compensation from a publicly-funded office or employment in addition to any retirement benefits to which the retired public official or public employee is entitled.

(m) *Certain expenses prohibited.* — No public official or public employee shall knowingly request or accept from any governmental entity compensation or reimbursement for any expenses actually paid by a lobbyist and required by the provisions of this chapter to be reported, or actually paid by any other person.

(n) Any person who is employed as a member of the faculty or staff of a public institution of higher education and who is engaged in teaching, research, consulting, or publication activities in his or her field of expertise with public or private entities and thereby derives private benefits from such activities shall be exempt from the prohibitions contained in subsections (b), (c) and (d) of this

section when the activity is approved as a part of an employment contract with the governing board of the institution or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(o) Except as provided in this section, a person who is a public official or public employee may not solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise or control. A person who is a public official or public employee may solicit private business from a subordinate public official or public employee whom he or she has the authority to direct, supervise or control when:

(A) The solicitation is a general solicitation directed to the public at large through the mailing or other means of distribution of a letter, pamphlet, handbill, circular, or other written or printed media; or

(B) The solicitation is limited to the posting of a notice in a communal work area; or

(C) The solicitation is for the sale of property of a kind that the person is not regularly engaged in selling; or

(D) The solicitation is made at the location of a private business owned or operated by the person to which the subordinate public official or public employee has come on his or her own initiative.

(p) The commission may, by legislative rule promulgated in accordance with chapter 29A of this code, define further exemptions from this section as necessary or appropriate.

The bill (Eng. Com. Sub. for H. B. 4424), as amended, was then ordered to third reading.

(Senator Weld in the Chair.)

Eng. Com. Sub. for House Bill 4428, Allowing training hours earned through public school education or apprenticeship to count towards an applicant's occupational certification.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page one, after the enacting clause, by inserting the following:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15g. Vocational education classes for homeschooled and private schooled students.

County boards shall permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools, if the county offers vocational classes either itself or through a joint vocational program or service with another county or counties: *Provided*, That such students will be treated equally for admission purposes with applicants enrolled in public school. These students may not be charged more than public school students of compulsory school age.;

On page three, section five, line four, after the word “acquired” by inserting the word “through”;

On page three, section five, line five, after the word “education” by inserting the word “and”;

On page three, section five, line eight, after the word “programs” by inserting the word “and”;

On page four, section four, line four, after the word “acquired” by inserting the word “through”;

On page four, section four, line five, after the word “education” by inserting the word “and”;

And,

On page four, section four, line eight, after the word “programs” by inserting the word “and”.

On motion of Senator Jeffries, the following amendment to the bill (Eng. Com. Sub. for H. B. 4428) was next reported by the Clerk:

On page one, after the enacting clause, by inserting the following:

CHAPTER 18. EDUCATION.

ARTICLE 33. GOVERNOR’S WORKFORCE CREDENTIAL.

§18-33-1. Establishing the Governor’s Workforce Credential.

The Governor’s Workforce Credential is an initiative aimed at preparing students to enter the workforce with industry ready skills and abilities to meet business and industry expectations. It also creates a way for employers to identify potential employees who are prepared to enter the workforce and understand the industry accepted expectations of such employees. The credential honors those students who are able to meet or exceed rigid requirements within their Career and Technical Education (CTE) programs.

§18-33-2. Requirements.

In order to receive the Governor’s Workforce Credential, a graduating senior shall:

(1) Obtain a grade of “B” or better in the four required state-approved CTE Program of study courses;

(2) Accomplish a minimum score of 95 percent on the CTE portfolio;

(3) Attain a verified school attendance rate of 95 percent or higher during senior year;

(4) Score at an elite level of 70 or higher on the industry-recognized audit;

(5) Earn an industry certification that coincides with a state-approved CTE Program of Study in accordance with the West Virginia Board of Education Policy 2520 13; and

(6) Pass a minimum of two documented drug screenings.

§18-33-3. Recognition for recipients of credential upon graduation.

Any student who fulfills the requirements of the Governor's Workforce Credential and has also met their graduation requirements will receive individual recognition at their high school graduation ceremony.

Following discussion,

The question being on the adoption of Senator Jeffries' amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 4428), as amended, was then ordered to third reading.

(Senator Carmichael, Mr. President, in the Chair.)

Eng. Com. Sub. for House Bill 4431, Establishing the Mountaineer Trail Network Recreation Authority.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 14A. MOUNTAINEER TRAIL NETWORK RECREATION AUTHORITY.

§20-14A-1. Legislative findings.

The West Virginia Legislature finds that there is a significant need within the state and throughout the eastern United States for well-managed facilities for trail-oriented recreation for bicycle

enthusiasts, mountain bicyclists, and others. The Legislature further finds that under an appropriate contractual and management scheme, well-managed, trail-oriented recreation facilities could exist on private property without diminishing the landowner's interest, control, or profitability in the land and without increasing the landowner's exposure to liability.

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide trail-oriented recreation facilities primarily on private property in the mountainous terrain of north central West Virginia and that the facilities will provide significant economic and recreational benefits to the state and to the communities in north central West Virginia through increased tourism in the same manner as whitewater rafting, snow skiing, and utility terrain motor vehicle riding benefit the state and communities surrounding those activities.

The Legislature further finds that the creation and empowering of a joint development entity to work with the landowners, county officials and community leaders, state and federal government agencies, recreational user groups, and other interested parties to enable and facilitate the implementation of the facilities will greatly assist in the realization of these potential benefits.

The Legislature further finds that it is in the best interests of the state to encourage private landowners to make land available for public use, through the Mountaineer Trail Network Recreation Authority, for these recreational purposes by limiting landowner liability for injury to persons entering thereon, by limiting landowner liability for injury to the property of persons entering thereon, and by limiting landowner liability to persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

§20-14A-2. Definitions.

Unless the context clearly requires a different meaning, the terms used in this article have the following meanings:

(1) “Authority” means the Mountaineer Trail Network Recreation Authority;

(2) “Board” means the board of the Mountaineer Trail Network Recreation Authority;

(3) “Charge” means, for purposes of limiting liability for recreational purposes set forth in this article, the amount of money asked in return for an invitation to enter or go upon the land, including a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience, or occasion as set by the authority, which may be set by the authority in differing amounts for different categories of participants;

(4) “Land” includes, but is not limited to, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment thereon when attached to the realty;

(5) “Mountaineer Trail Network Recreation Area” means a system of recreational trails and appurtenant facilities, including trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities that are a part of the system: *Provided*, That for the purposes of permitted or prohibited use of such a system, the term includes a system located in a regional Mountaineer Trail Network Authority established pursuant to §20-14A-13 of this article;

(6) “Owner” means those vested with title to real estate and those with the ability to exercise control over real estate and includes, but is not limited to, tenant, lessee, licensee, holder of a dominant estate, or other lawful occupant;

(7) “Participant” means any person using the land, trails, and facilities of the Mountaineer Trail Network Recreation Area;

(8) “Participating county” means the counties of Barbour, Grant, Harrison, Marion, Mineral, Monongalia, Preston, Randolph, Taylor, and Tucker and, upon request of the county commission, any county that is adjacent to a participating county of the Mountaineer Trail Network Recreation Area as of July 1, 2021; and

(9) “Recreational purposes” includes, but is not limited to, any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, mountain bicycling, running, cross-country running, equestrian activities, nature study, winter sports and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites or otherwise using land for purposes of the user.

§20-14A-3. Mountaineer Trail Network Recreation Authority; board; terms.

(a) There is hereby created the “Mountaineer Trail Network Recreation Authority” which is a public corporation and a joint development entity existing for the purpose of enabling and facilitating the development and operation of a system of trail-oriented recreation facilities for use by bicycling enthusiasts, mountain bicyclists, and others, to be located in north central West Virginia with significant portions of the trails system being located on private property made available for use through lease, license, easement, or other appropriate legal form by a willing landowner.

(b) The authority is composed of a board of members who shall be representative of the various interests involved in the Mountaineer Trail Network Recreation Area project in the participating counties and who shall be appointed as follows:

(1) The county commission of each participating county, as defined in §20-14A-2 of this article, shall appoint two members to the board as follows:

(A) One member who represents and is associated with a corporation or individual landowner whose land is being used or is expected to be used in the future as part of the Mountaineer Trail Network Recreation Area project or their designee. This member shall be appointed to a four-year term.

(B) One member who represents and is associated with travel and tourism or economic development efforts within the county or who is associated with a mining, logging, natural gas, or other

resource-extraction industry or who is a licensed land surveyor or licensed professional engineer. The initial appointment shall be for a two-year term, but all subsequent appointments shall be for a four-year term.

(2) Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(c) The Mountaineer Trail Network Recreation Authority is a "public body" for purposes of the West Virginia Freedom of Information Act, as provided in §29B-1-1 et seq. of this code.

§20-14A-4. Board; quorum; executive director; expenses.

(a) The board is the governing body of the authority and the board shall exercise all the powers given the authority in this article.

(b) The board shall meet quarterly, unless a special meeting is called by its chairman: *Provided*, That at the first meeting of each fiscal year beginning in an odd-numbered year, or as soon thereafter as feasible, the board shall elect a chairman, secretary, and treasurer from among its own members.

(c) A majority of the members of the board constitutes a quorum and a quorum shall be present for the board to conduct business.

(d) The board may prescribe, amend, and repeal bylaws and rules governing the manner in which the business of the authority is conducted, rules governing the use of the trail system and the safety of participants, and shall review and approve an annual budget. The fiscal year for the authority begins on July 1 and ends on the thirtieth day of the following June.

(e) The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and retain such temporary legal, engineering, financial, and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. The executive director shall carry out plans to implement the provisions of this article and to exercise those powers enumerated in the bylaws. The executive director shall prepare an annual budget to be submitted to the board for its review and approval prior to the commencement of each fiscal year. The budget shall contain a detailed account of all planned and proposed revenue and expenditures for the authority for the upcoming fiscal year, including a detailed list of employees by title, salary, cost of projected benefits and total compensation. Before August 15 of each year, the executive director shall provide to the board and the county commission for each participating county a detailed list of actual expenditures and revenue by account and recipient name for the previous fiscal year and a copy of the approved budget for the current fiscal year.

(f) All costs incidental to the administration of the authority, including office expenses, personal services expense, and current expense, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(g) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and no liability or obligation may be incurred by the authority under this article beyond the extent to which moneys have been provided under the authority of this article.

§20-14A-5. Financial review and oversight.

(a) The authority shall contract for and obtain an annual financial audit to be conducted by a private accounting firm in compliance with generally accepted government auditing standards. When complete, the audit shall be transmitted to the board, the president of the county commission of each participating

county, and the Legislative Auditor. The cost of the audit shall be paid by the authority.

(b) If the authority receives any funds from the Legislature by appropriation or grant, the Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the Mountaineer Trail Network Recreation Authority, and for these purposes, shall have the power to inspect the properties, equipment, and facilities of the authority and to request, inspect, and obtain copies of any records of the authority. For each fiscal year in which the authority receives any funds from the Legislature by appropriation or grant, the executive director shall provide to the Legislative Auditor and Secretary of Revenue a detailed list of actual expenditures and revenue by account and recipient name for the previous fiscal year within 45 days of the close of that fiscal year.

§20-14A-6. Powers of the authority.

The authority, as a public corporation and joint development entity, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

(1) To acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

(2) To lease property, whether as lessee or lessor, and to acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the use of the public;

(3) To mortgage or otherwise grant security interests in its property;

(4) To procure insurance against any losses in connection with its property, license, or easements, contracts, including hold-harmless agreements, operations, or assets in such amounts and from such insurers as the authority considers desirable;

(5) To maintain such sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority;

(6) To sue and be sued, implead and be impleaded, and complain and defend in any court;

(7) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 et seq. of this code, the counsel may, in addition to the provisions of other legal services, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating to the authority, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority;

(8) To adopt, use, and alter at will a corporate seal;

(9) To make, amend, repeal, and adopt bylaws for the management and regulation of its affairs;

(10) To appoint officers, agents, and employees and to contract for and engage the services of consultants;

(11) To make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying on its business, including contracts with any other governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

(12) Without in any way limiting any other subdivision of this section, to accept grants and loans from, and enter into contracts and other transactions with, any federal agency;

(13) To maintain an office at such places within the state as it may designate;

(14) To borrow money and to issue notes and to provide for the payment of notes and to provide for the rights of the holders of the notes and to purchase, hold, and dispose of any of its notes;

(15) To issue notes payable solely from the revenues or other funds available to the authority, and the authority may issue its notes in such principal amounts as it considers necessary to provide funds for any purpose under this article, including:

(A) The payment, funding or refunding of the principal of, interest on or redemption premiums on notes issued by it, whether the notes or interest to be funded or refunded have or have not become due; and

(B) The establishment or increase of reserves to secure or to pay notes or the interest on the notes and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source whatsoever;

(16) To issue renewal notes, except that no renewal notes may be issued to mature more than 10 years from the date of issuance of the notes renewed;

(17) To apply the proceeds from the sale of renewal notes to the purchase, redemption, or payment of the notes to be refunded;

(18) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the federal government or from any governmental unit or any person, firm, or corporation and to carry out the terms or provisions of or make agreements with respect to or pledge any gifts or grants and to do any and all things necessary, useful, desirable, or convenient in connection with the procuring, acceptance, or disposition of gifts or grants;

(19) To the extent permitted under its contracts with the holders of notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any note, contract or agreement of any kind to which the authority is a party;

(20) To construct, reconstruct, improve, maintain, repair, operate, and manage the Mountaineer Trail Network Recreation

Area at the locations within the participating counties as may be determined by the authority;

(21) To enter into an agreement with the West Virginia Division of Natural Resources for natural resources police officers to provide law-enforcement services within the Mountaineer Trail Network Recreation Area and to reimburse the Division of Natural Resources for its costs therefor;

(22) To exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain, and operate or oversee the operation of the Mountaineer Trail Network Recreation Area at such locations within the participating counties as may be determined by the authority;

(23) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state;

(24) To develop, maintain, and operate or to contract for the development, maintenance, and operation of the Mountaineer Trail Network Recreation Area;

(25) To enter into contract with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for recreational purposes or growing out of the recreational activities operated or managed by the authority from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or other person or any of his or her agents or employees;

(26) To assess and collect a reasonable fee from those persons who use the trails, parking facilities, visitor centers, or other facilities which are part of the Mountaineer Trail Network Recreation Area and to retain and utilize that revenue for any purposes consistent with this article;

(27) To enter into contracts or other appropriate legal arrangements with landowners under which their land is made

available for use as part of the Mountaineer Trail Network Recreation Area;

(28) To directly operate and manage recreation activities and facilities within the Mountaineer Trail Network Recreation Area;

(29) To establish and collect charges for users to enter or go upon the Mountaineer Trail Network Recreation Area, including a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience, or occasion as set by the authority and including fees set by the authority in differing amounts for different categories of participants: *Provided*, That the authority may not charge a fee for any user to enter or go upon any trail that is open for use by the public without fee as of January 1, 2018;

(30) To promulgate and publish rules governing the use of the trail system and the safety of participants, including rules designating particular trails or segments of trails within the Mountaineer Trail Network Recreation Area for certain activities and limiting use of designated trails to such activities;

(31) To coordinate and conduct mountain bicycling or other athletic races, competitions, or events within the Mountaineer Trail Network Recreation Area, in cooperation with the county commissions of participating counties in which such events will take place; and

(32) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers conferred in this section;

§20-14A-7. Requirements for trail users and prohibited acts; criminal penalties.

(a) A person may not enter or remain upon the Mountaineer Trail Network Recreation Area without a valid, nontransferable user permit issued by the authority and properly displayed, except properly identified landowners or leaseholders or their officers, employees, or agents while on the land that the person owns or leases for purposes related to the ownership or lease of the land.

(b) A person may not consume or possess any alcoholic liquor, wine, nonintoxicating beer, or nonintoxicating craft beer at any time or any location within the Mountaineer Trail Network Recreation Area.

(c) The operator or any passengers of a bicycle or mountain bicycle within the Mountaineer Trail Network Recreation Area shall wear size-appropriate protective helmets at all times. All operators and passengers shall wear helmets that meet the current performance specifications established by the United States Consumer Products Safety Commission standard or the American Society for Testing and Materials standard.

(d) Each trail user shall obey all traffic laws, traffic-control devices, and signs within the Mountaineer Trail Network Recreation Area, including those which restrict trails to certain types of bicycles or mountain bicycles.

(e) Each trail user shall at all times remain within and on a designated and marked trail while within the Mountaineer Trail Network Recreation Area.

(f) A person may not ignite or maintain any fire within the Mountaineer Trail Network Recreation Area except in a designated camp site.

(g) A person may not operate a motor vehicle within the Mountaineer Trail Network Recreation Area.

(h) A person may not possess a glass container while riding on a bicycle or mountain bicycle within the Mountaineer Trail Network Recreation Area.

(i) A person may not operate or ride in an all-terrain vehicle or utility-terrain vehicle, as defined in §17F-1-1 *et seq.* of this code, or any other motor vehicle with bench or bucket seating and a steering wheel for control within the Mountaineer Trail Network Recreation Area.

(j) A person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more

than \$100. Prosecution or conviction for the misdemeanor described in this subsection shall not prevent or disqualify any other civil or criminal remedies for the conduct prohibited by this section.

§20-14A-8. Limiting liability.

(a) An owner of land used by the Mountaineer Trail Network Recreation Authority owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous or hazardous condition, use, structure, or activity on the premises used by the Mountaineer Trail Network Recreation Authority to persons entering for those purposes.

(b) Unless otherwise agreed in writing, an owner who grants a lease, easement, or license of land to the authority for recreational purposes, whether with or without charge, owes no duty of care to keep that land safe for entry or use by others or to give warning to persons entering or going upon the land of any dangerous or hazardous conditions, uses, structures, or activities thereon. An owner who grants a lease, easement, or license of land to the authority for recreational purposes does not by giving a lease, easement, or license: (1) Extend any assurance to any person using the land that the premises are safe for any purpose; (2) confer upon those persons the legal status of an invitee or licensee to whom a duty of care is owed; or (3) assume responsibility for or incur liability for any injury to person or property caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering upon the land is an invitee, licensee, trespasser, or otherwise.

(c) Nothing herein limits in any way any liability which otherwise exists for deliberate, willful, or malicious infliction of injury to persons or property: *Provided*, That nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as to prevent the creation of hazards or the commission of waste by himself or herself.

§20-14A-9. Purchasing and bidding procedures; criminal penalties.

(a) Whenever the authority proposes to purchase or contract for commodities or services reasonably anticipated to equal or exceed \$25,000 in cost, the purchase or contract shall be based on competitive bids. Where the purchase of particular commodities or services is reasonably anticipated to be \$25,000 or less, the executive director may, on behalf of the authority, solicit bids or price quotes in any manner that the executive director deems appropriate and the authority shall obtain its commodities or services by the lowest bid. In lieu of seeking bids or quotes for commodities or services in this price range, the authority may purchase those commodities and services pursuant to state master contracts as provided in §5A-3-10e of this code.

(b) Where the cost for the purchase of commodities or services is reasonably anticipated to exceed \$25,000, the executive director shall solicit sealed bids for the commodities or services to be provided: *Provided*, That the executive director may permit bids by electronic transmission be accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be published as a Class II legal advertisement in all participating counties in compliance with the provisions of §59-3-1 *et seq.* of this code and by such other means as the executive director deems appropriate. The notice shall state the general character of the work and general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. After all bids are received, the authority shall enter into a written contract with the lowest responsible bidder; however, the authority may reject any or all bids that fail to meet the specifications required by the authority or that exceed the authority's budget estimation for those commodities or services. If the executive director determines in writing that there is only one responsive and responsible bidder and that there has been sufficient public notice to attract competitive bids, he or she may negotiate the price for a noncompetitive award or the specifications for a noncompetitive award based solely on the original purpose of the solicitation.

(c) For any contract that exceeds \$25,000 in total cost, the authority shall require the vendors to post a bond, with form and surety to be approved by the authority, in an amount equal to at least 50 percent of the contract price conditioned upon faithful performance and completion of the contract.

(d) The bidding requirements specified in this section do not apply to any leases for real property upon which the authority makes improvements for public access to the recreation area, information distribution, and welcome centers. This exemption does not apply to leases for offices, vehicle and heavy equipment storage, or administrative facilities.

(e) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than 10 days nor more than one year, or fined not less than \$10 nor more than \$1,000, or both confined and fined.

§20-14A-10. Conflicts of interest prohibiting certain contracts; criminal penalties.

(a) No contract, change order to a prior contract, or renewal of any contract may be awarded or entered by the authority to any vendor or prospective vendor when the vendor or prospective vendor is a member of the board or an employee of the authority, or a spouse, sibling, child, or parent of a member of the board or an employee of the authority or to any vendor or prospective vendor in which a member of the board or employee of the authority, or a spouse, sibling, child, or parent of a member of the board or an employee of the authority has an ownership interest of greater than five percent.

(b) No contract, change order to a prior contract, or renewal of any contract may be awarded or entered by the authority to any vendor or prospective vendor when the vendor or prospective vendor is a member of the West Virginia Legislature, or a spouse, sibling, child, or parent of a member of the Legislature, or to any vendor or prospective vendor in which a member of the Legislature or a spouse, sibling, child, or parent of a member of the Legislature, has an ownership interest of greater than five percent.

(c) All responses to bid solicitations, requests for quotation, requests for proposal, contracts, change orders, and contract renewals with the authority submitted or approved under the provisions of this article shall include an affidavit that the vendor or prospective vendor is not in violation of this section.

(d) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than 10 days nor more than one year, or fined not less than \$10 nor more than \$1,000, or both confined and fined.

§20-14A-11. Civil remedies for unlawful purchasing and contracts.

The county commission of any participating county may challenge the validity of any contract or purchase entered, solicited, or proposed by the authority in violation of §20-14A-9 or §20-14A-10 of this article by seeking declaratory or injunctive relief in the circuit court of the county of the challenging party. If the court finds by a preponderance of evidence that the provisions of those sections have been violated, the court may declare the contract or purchase to be void and may grant any injunctive relief necessary to correct the violations and protect the funds of the authority as a joint development entity.

§20-14A-12. Creation of regional Mountaineer Trail Network Recreation Authorities.

(a) For the purposes provided in §20-14A-1 of this article, four or more adjacent counties may, upon approval of the county commission of each county desiring to participate, form a separate and distinct regional Mountaineer Trail Network Recreation Authority that will be a joint development entity and a public corporation. A regional Mountaineer Trail Network Recreation Authority shall promulgate its own rules and bylaws relating to use of trails within the regional authority area and operations of the regional authority board.

(b) With respect to a regional Mountaineer Trail Network Recreation Authority area, a regional authority formed pursuant to

this section shall have the same powers and duties of the Mountaineer Trail Network Recreation Authority, and such regional authority shall comply with all requirements of this article that apply to the Mountaineer Trail Network Recreation Authority.

(c) The liability of the owner of land used by a regional Mountaineer Trail Network Recreation Authority is limited in the same manner as provided in §20-14-8 of this article.

(d) All other provisions of this article regarding requirements, limitations, and privileges of a user, the board, participating landowners, or participating counties of the Mountaineer Trail Network Recreation Authority shall apply to a user, the board, a participating landowner, or a participating county of a regional Mountaineer Trail Network Recreation Authority with respect to the separate and distinct regional authority.

§20-14A-13. Severability.

The several sections and provisions of this article are severable, and if any section or provision hereof is held unconstitutional, all the remaining sections and provisions of this article shall nevertheless remain valid.

The bill (Eng. Com. Sub. for H. B. 4431), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4447, Providing for a uniform and efficient system of broadband conduit installation.

On second reading, coming up in regular order, was read a second time.

On motions of Senators Gaunch, Boso, and Plymale, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 2E. DIG ONCE POLICY.**§17-2E-1. Legislative findings.**

(a) The Legislature finds that it is in the public interest to accommodate telecommunications facilities on Division of Highways' right-of-way when the use of the right-of-way does not adversely affect the safety of the traveling public or impair the highway or its aesthetic quality or conflict with any federal, state, or local laws, rules, regulations, or policies.

(b) The Legislature further finds that a broadband connection is an essential part of developing the state and local economies, enhancing the transportation system and creating a safer and more secure environment for our citizens.

(c) The Legislature further finds that expanding telecommunication facilities will allow the state to participate in the E-Rate Program of funding for digital education in America to provide reliable services opportunities for education and training.

(d) The Legislature further finds that fast, reliable broadband connections enhance telemedical opportunities for our rural doctors and hospitals, linking them to our major medical centers. Thereby overcoming distance barriers, and improving access to medical services that often are not consistently available in rural communities.

(e) The Legislature further finds that instituting a dig once policy encourages telecommunications carriers to coordinate installation of broadband conduit to minimize costs to the carriers and minimize disruption and inconvenience to the traveling public.

§17-2E-2. Definitions.

For the purposes of this article:

“Broadband conduit” or “conduit” means a conduit, innerduct, or microduct for fiber optic cables that support facilities for broadband service.

“Longitudinal access” means access to or the use of any part of a right-of-way that extends generally parallel to the traveled way.

“Permit” means an encroachment permit issued by the West Virginia Division of Highways that specifies the requirements and conditions for performing work in a right-of-way.

“Right-of-way” means land, property, or any interest therein acquired or controlled by the West Virginia Division of Highways for transportation facilities or other transportation purposes or specifically acquired for utility accommodation.

“Telecommunications facility” means any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment, or other equipment, system, or device that is used to transmit, receive, produce, or distribute a signal for telecommunications purposes via wireless, wireline, electronic, or optical means.

“Telecommunications carrier” means a telecommunications provider as determined by the Public Service Commission of West Virginia or that meets the definition of telecommunications carrier with respect to the Federal Communications Commission, as contained in 47 U.S.C. §153

“Utility facility” has the meaning ascribed to it in §17-2A-17a of this code.

“Wireless access” means access to and use of a right-of-way for the purpose of constructing, installing, maintaining, using, or operating telecommunications facilities for wireless telecommunications.

§17-2E-3. Use of rights-of-way.

(a) Before granting longitudinal access or wireless access to a right-of-way, the Division of Highways shall first enter into an agreement with a telecommunications carrier that is competitively neutral and nondiscriminatory as to other telecommunications carriers. Upon receipt of any required approval or concurrence by

the Federal Highway Administration the division may issue a permit granting access under this section: *Provided*, That the Division of Highways shall comply with all applicable federal regulations with respect to approval of an agreement, including but not limited to 23 C.F.R. § 710.403 and 23 C.F.R. §710.405. The agreement shall be approved by the Commissioner of Highways in order to be effective and, without limitation:

(1) Specify the terms and conditions for renegotiation of the agreement;

(2) Set forth the maintenance requirements for each telecommunications facility;

(3) Be nonexclusive; and

(4) Be for a term of not more than 30 years.

(b) Unless specifically provided for in an agreement entered into pursuant to §17-2E-3(a) of this code, the Division of Highways may not grant a property interest in a right-of-way pursuant to this article.

(c) A telecommunications carrier shall compensate the Division of Highways for access to a right-of-way for the construction, installation, and maintenance of telecommunication facilities, the use of spare conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section. The compensation must be, without limitation:

(1) At fair market value;

(2) Competitively neutral;

(3) Nondiscriminatory;

(4) Open to public inspection;

(5) Calculated based on the geographic region of this state, taking into account the population and the impact on private right-of-way users in the region;

(6) Paid in cash or with in-kind compensation, or a combination of cash and in-kind compensation; and

(7) Paid in a lump-sum payment or in annual installments, as agreed to by the telecommunications carrier and the Division of Highways.

(d) The division may consider the value and benefits expanding broadband service to the unserved and underserved areas of the state has on economic development and expansion of digital education and telemedical opportunities in the area.

(e) For the purpose of determining the amount of compensation a telecommunications carrier must pay the Division of Highways for the use of spare conduit or excess conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section, the division shall:

(1) Conduct an analysis once every five years, in accordance with the rules, policies, or guidelines of the Division of Highways, to determine the fair market value of a right-of-way to which access has been granted pursuant to this section; and

(2) If compensation is paid in-kind, determine the fair market value of the in-kind compensation based on the incremental costs for the installation of conduit and related facilities.

(f) The value of in-kind compensation, or a combination of money and in-kind compensation, must be equal to or greater than the amount of monetary compensation that the Division of Highways would charge if the compensation were paid solely with money.

(g) The provisions of this article shall not apply to the relocation or modification of existing telecommunication facilities in a right-of-way, nor shall these provisions apply to aerial telecommunications facilities or associated apparatus or equipment in a right-of-way. Relocation of telecommunications facilities within rights-of-way for state highways shall be in accordance with the provisions of §17-4-17b of this code.

§17-2E-4. Highway safety.

(a) The Division of Highways, in its sole discretion, may deny any longitudinal access or wireless access if such access would compromise the safe, efficient, and convenient use of any road, route, highway, or interstate in this state for the traveling public.

(b) Any longitudinal access or wireless access to a right-of-way granted by the Division of Highways pursuant to this article does not abrogate, limit, supersede, or otherwise affect access granted or authorized pursuant to the division's rules, policies, and guidelines related to accommodation of utilities on highways' rights-of-way and adjustment and relocation of utility facilities on highway projects.

§17-2E-5. Joint use.

(a) The Division of Highways shall provide for the proportionate sharing of costs between telecommunications carriers for joint trenching or trench sharing based on the amount of conduit innerduct space or excess conduit that is authorized in the agreements entered into pursuant to this article. If the division plans to use the trench it shall pay its proportional share unless it is utilizing the trench as in-kind payment for use of the right-of-way.

(b) Upon application for a permit, the carrier will notify, by email, the West Virginia Broadband Enhancement Council and all other carriers on record with the West Virginia Broadband Enhancement Council of the application. Other carriers have 30 calendar days to notify the applicant if they wish to share the applicant's trench. This requirement extends to all underground construction technologies.

(c) The carrier shall also meet the following conditions for a permit:

(1) The telecommunications carrier will be required to place, at its sole expense, a Class II legal advertisement, in accordance with §59-3-2(a) of this code, and of a form and content approved by the Division of Highways, in the local project area newspaper, in the Charleston newspaper, on industry and the Division of Highways'

websites, and within other pertinent media, announcing the general scope of the proposed installation within the right-of-way and providing competing telecommunications carriers the opportunity to timely express an interest in installing additional telecommunication facilities during the initial installation. The legal advertisement is to run at least two consecutive weeks, and the telecommunications carrier is to notify the division of any interest of other parties received.

(2) If a competing telecommunications carrier expresses interest in participating in the project, an agreement between the two (or more) telecommunications carriers will be executed by those entities, outlining the responsibilities and financial obligations of each, with respect to the installation within the right-of-way. A copy of the executed agreement shall be provided to the Division of Highways.

(3) The telecommunications carrier that placed the legal advertisement is responsible for resolving in good faith all disputes between any competing telecommunications carriers that timely responded to the advertisement and that wishes to install facilities within the same portion of the rights-of-way to be occupied. Should a dispute arise between the initial telecommunications carrier and a competing telecommunications carrier, the initial telecommunications carrier will attempt to mediate the dispute. Any dispute that is not resolved by the telecommunications carriers shall be adjudicated by the Public Service Commission.

(d) If two or more telecommunications carriers are required or authorized to share a single trench, each carrier in the trench must share the cost and benefits of the trench in a fair, reasonable, competitively neutral, and nondiscriminatory manner. This requirement extends to all underground construction technologies.

§17-2E-6. Monetary and in-kind compensation.

(a) All monetary compensation collected by the Division of Highways pursuant to this article shall be deposited in the State Road Fund.

(b) In-kind compensation paid to the Division of Highways under an agreement entered into pursuant to this article may include, without limitation:

(1) Conduit or excess conduit;

(2) Innerduct;

(3) Dark fiber;

(4) Access points;

(5) Telecommunications equipment or services;

(6) Bandwidth; and

(7) Other telecommunications facilities as a component of the present value of the trenching.

(c) The Division of Highways shall value any in-kind compensation based on fair market value at the time of installation or review.

(d) In-kind compensation paid to the Division of Highways may be disposed of if both of the following conditions are met:

(1) The telecommunications facility received as in-kind payment has not been used within 10 years of its installation; and

(2) The Commissioner of the Division of Highways determines that the division does not have an immediately foreseeable need for the telecommunications facility.

(e) Upon determining that it is appropriate to dispose of the telecommunications facility, the division shall determine its current fair market value. The division shall offer the provider or providers who made the in-kind payment the option to purchase any telecommunications facility obtained from such provider. If the provider or providers do not purchase the telecommunications facility, it shall be offered for public auction in the same manner as the division auctions excess rights-of-way.

§17-2E-7. Multiple carriers in a single trench.

(a) If the Division of Highways enters into an agreement with two or more telecommunications carriers, a consortium or other entity whose members, partners or other participants are two or more telecommunications carriers, or, if the division requires or allows two or more telecommunications carriers to share a single trench, the agreements entered into pursuant to this article shall require that the telecommunications carriers share the obligation of compensating the Division of Highways on a fair, reasonable and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications carrier from the trench, conduits, and other telecommunications facilities installed under the agreements.

(b) The provisions of §17-2E-7(a) of this code do not prevent the Division of Highways from requiring every participating telecommunications carrier to bear joint and several liability for the obligations owed to the Division of Highways under the agreements.

(c) Any agreement requiring two or more telecommunications carriers to share the obligation of compensating the Division of Highways shall provide the division the right to review and audit the records and contracts of and among the participating carriers to ensure compliance with §17-2E-7(a) of this code.

§17-2E-8. Existing policies.

(a) The requirements set forth in this article do not alter existing rules, policies, and procedures relating to other utility facilities within a right-of-way or for accommodating utility facilities or other facilities under the control of the Division of Highways.

(b) The Division of Highways may consider the financial and technical qualifications of a telecommunications carrier when determining specific insurance requirements for contractors authorized to enter a right-of-way to construct, install, inspect, test, maintain, or repair telecommunications facilities with longitudinal access or wireless access to the right-of-way.

(c) If the Division of Highways authorizes longitudinal access, wireless access, or the use of, and access to, conduit or related facilities of the division for construction and installation of a telecommunications facility, the division may require an approved telecommunications carrier to install the telecommunications facility in the same general location as similar facilities already in place, coordinate their planning and work with other contractors performing work in the same geographic area, install in a joint trench when two or more telecommunications carriers are performing installations at the same time and equitably share costs between such carriers.

(d) The placement, installation, maintenance, repair, use, operation, replacement, and removal of telecommunications facilities with longitudinal access or wireless access to a right-of-way or that use or access conduit or related facilities of the division shall be accommodated only when in compliance with this code and Division of Highways rules, policies and guidelines.

(e) Access to a right-of-way must be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq., as amended.

The bill (Eng. Com. Sub. for H. B. 4447), as amended, was then ordered to third reading.

Eng. House Bill 4465, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4524, Establishing guidelines for the substitution of certain biological pharmaceuticals.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS,
PHARMACY INTERNS AND PHARMACIES.**

§30-5-12c. Substitution of biological product: Definitions; selection of interchangeable biological products; exceptions; records; labels; manufacturing standards; emergency rules; complaints; and immunity.

(a) As used in this section:

“Biological product” means the same as that term is defined in 42 U.S.C. § 262.

“Brand name” means the proprietary or trade name selected by the manufacturer and placed upon a drug or drug product, its container, label, or wrapping at the time of packaging.

“Interchangeable biological product” means a biological product that the federal Food and Drug Administration has:

(1) Licensed and determined meets the standards for interchangeability pursuant to 42 U.S.C § 262(k)(4); or

(2) Determined is therapeutically equivalent as set forth in the latest edition of or supplement to the federal Food and Drug Administration’s Approved Drug Products with Therapeutic Equivalence Evaluations.

“Proper name” means the nonproprietary name of a biological product.

“Substitute” means to dispense without the prescriber’s express authorization an interchangeable biological product in the place of the drug ordered or prescribed.

(b) Except as limited by subsection (c) and unless instructed otherwise by the patient, a pharmacist who receives a prescription for a specific biological product shall select a less expensive interchangeable biological product unless in the exercise of his or

her professional judgment the pharmacist believes that the less expensive drug is not suitable for the particular patient. The pharmacist shall provide notice to the patient or the patient's designee regarding the selection of a less expensive interchangeable biological product.

(c) If, in the professional opinion of the prescriber, it is medically necessary that an equivalent drug product or interchangeable biological product not be selected, the prescriber may so indicate by certifying that the specific brand-name drug product prescribed, or the specific brand-name biological product prescribed, is medically necessary for that particular patient. In the case of a prescription transmitted orally, the prescriber must expressly indicate to the pharmacist that the specific brand-name drug product prescribed, or the specific biological product prescribed is medically necessary.

(d) (1) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall communicate the specific product provided to the patient, including the name of the product and the manufacturer, to the prescriber through any of the following electronic records systems:

(A) An interoperable electronic medical records system;

(B) An electronic prescribing technology;

(C) A pharmacy benefit management system; or

(D) A pharmacy record.

(2) Communication through an electronic records system as described in §30-5-12c(d)(1) of this code is presumed to provide notice to the prescriber.

(3) If the pharmacist is unable to communicate pursuant to an electronic records system the pharmacist shall communicate to the prescriber which biological product was dispensed to the patient using facsimile, telephone, electronic transmission, or other prevailing means.

(4) Communication is not required under this subsection when:

(A) There is no Federal Food and Drug Administration approved interchangeable biological product for the product prescribed; or

(B) A refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(e) The pharmacist shall maintain a record of the biological product dispensed for at least two years. Such record shall include the manufacturer and proper name of the interchangeable biological product selected.

(f) All biological products shall be labeled in accordance with the instructions of the practitioner.

(g) Unless the practitioner directs otherwise, the prescription label on all biological products dispensed by the pharmacist shall indicate the proper name using abbreviations, if necessary, and either the name of the manufacturer or packager, whichever is applicable, in the pharmacist's discretion. The same notation will be made on the original prescription retained by the pharmacist.

(h) A pharmacist may not dispense a product under the provisions of this section unless the manufacturer has shown that the biological product has been manufactured with the following minimum good manufacturing standards and practices by:

(1) Labeling products with the name of the original manufacturer and control number;

(2) Maintaining quality control standards equal to or greater than those of the United States Food and Drug Administration;

(3) Marking products with identification code or monogram;
and

(4) Labeling products with an expiration date.

(i) The West Virginia Board of Pharmacy shall promulgate emergency rules pursuant to the provisions of §29A-3-15 of this

code setting standards for substituted interchangeable biological products, obtaining compliance with the provisions of this section, and enforcing the provisions of this section.

(j) Any person shall have the right to file a complaint with the West Virginia Board of Pharmacy regarding any violation of the provisions of this article. Such complaints shall be investigated by the Board of Pharmacy.

(k) No pharmacist or pharmacy complying with the provisions of this section shall be liable in any way for the dispensing of an interchangeable biological product substituted under the provisions of this section, unless the interchangeable biological product was incorrectly substituted.

(l) In no event where the pharmacist substitutes an interchangeable biological product under the provisions of this section shall the proscribing physician be liable in any action for loss, damage, injury, or death of any person occasioned by or arising from, the use of the substitute biological product unless the original biological product was incorrectly prescribed.

(m) Failure of a practitioner to specify that a specific brand name is necessary for a particular patient shall not constitute evidence of negligence unless the practitioner had reasonable cause to believe that the health of the patient required the use of a certain product and no other.

The bill (Eng. Com. Sub. for H. B. 4524), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4558, Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. Com. Sub. for House Bill 4603, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 7K. IMMUNITY FROM CIVIL LIABILITY FOR
BEHAVIORAL HEALTH FACILITIES AND
RESIDENTIAL RECOVERY FACILITIES.**

§55-7K-1. Limiting civil liability for certain behavioral health facilities and residential recovery facilities providing crisis stabilization services and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdose services on a short-term basis.

Notwithstanding any other provision of this code, no behavioral health facility that is licensed in this state, another state, or operated by the state, or one of its political subdivisions, and no residential recovery facility certified by or meeting the standards of a national certifying body, nor any of their directors, officers, employees, and agents shall be liable for injury or civil damages related to the provision of short-term crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, drug overdose services, and/or withdrawal services to the extent the injury or damages arise from an individual's refusal of services, election to discontinue services, failure to follow the orders or instructions of a facility, voluntary departure, elopement, or abandonment from a facility, with or without notice to others, so long as the services are offered in good faith, the facility does not require payment from the individual receiving the services, and the injury or damages are not proximately caused by the gross negligence or willful or wanton misconduct of the facility, or its directors, officers, employees, or agents: *Provided*, That for the purposes of this section, to the extent such behavioral health facilities or residential recovery facilities are reimbursed or receive Medicaid or grant funding, they are not deemed to have required payment from the individual receiving the services.

§55-7K-2. Applicability of provisions.

(a) The provisions of this article are applicable to all causes of action accruing on or after July 1, 2018.

(b) The provisions of this article operate in addition to, and not in derogation of, any of the provisions contained in §55-7B-1 et seq. of this code.

The bill (Eng. Com. Sub. for H. B. 4603), as amended, was then ordered to third reading.

Eng. House Bill 4628, Relating to authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to January 1, 2019.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

Eng. House Bill 4629, Relating to broadband enhancement and expansion policies generally.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 31G. BROADBAND ENHANCEMENT AND
EXPANSION POLICIES**

ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.

§31G-1-10. Pilot Project for cooperatives by political subdivisions.

[Repealed].

ARTICLE 2. COOPERATIVE ASSOCIATIONS.**§31G-2-1. Definitions.**

As used in this article:

(1) “Cooperative association” or “association” means any corporation organized under this article. Each association shall also comply with the requisite business corporation provisions of chapter thirty-one-d or thirty-one-f of this code, or the nonprofit corporation provisions of chapter thirty-one-e of this code.

(2) “Internet services” means providing access to, and presence on, the internet and other services. Data may be transmitted using several technologies, including dial-up, DSL, cable modem, wireless, or dedicated high-speed interconnects.

(3) “Member” means a member of an association without capital stock and a holder of common stock in an association organized with capital stock.

(4) “Qualified person” means a person who is engaged in the use of internet services, either in an individual capacity, as a political subdivision of this state, or as a business.

(5) “Qualified activity” means using internet services.

ARTICLE 4. MAKE-READY POLE ACCESS.**§31G-4-4. Public Service Commission jurisdiction; rulemaking; enforcement.**

(a) The Public Service Commission shall possess and exercise regulatory jurisdiction over the provisions of this article. The Commission shall administer and adjudicate disputes relating to the issues and procedures provided for under this article.

(b) The Commission shall promulgate rules and regulations necessary to effectuate the provisions of the article.

(c) The Commission shall certify to the Federal Communications Commission that this state, as evidenced by the

enactment of this article, hereby exercises jurisdiction over the regulation of pole attachments. The certification shall include notice that the State of West Virginia hereby:

(1) Regulates the rates, terms, and conditions related to pole attachments, and

(2) In so regulating such rates, terms, and conditions, the State has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the services.

The bill (Eng. H. B. 4629), as amended, was then ordered to third reading.

The Senate proceeded to the eleventh order of business and the introduction of guests.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 3:43 p.m., the Senate recessed until 6:30 p.m. today.

The Senate reconvened at 8:16 p.m. tonight and, at the request of Senator Weld, and by unanimous consent, returned to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8th day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for H. B. 2694), Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

(Com. Sub. for H. B. 2696), Relating to crossbow hunting.

(Com. Sub. for H. B. 2843), Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

(Com. Sub. for H. B. 2890), Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

(Com. Sub. for H. B. 3104), Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

(Com. Sub. for H. B. 4022), Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

(Com. Sub. for H. B. 4138), Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

(Com. Sub. for H. B. 4175), Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

(Com. Sub. for H. B. 4199), Permitting a nursing home to use trained individuals to administer medication.

(H. B. 4285), Relating to the West Virginia Safe Mortgage Licensing Act.

(H. B. 4332), Relating to home peritoneal renal dialysis.

(H. B. 4385), Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

And,

(Com. Sub. for H. B. 4619), Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2982, Relating to allowing draw games winners to remain anonymous.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2982) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Senator Takubo, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 4001, Relating to eligibility and fraud requirements for public assistance.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on Health and Human Resources on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Tom Takubo,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4001) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Health and Human Resources committee amendment pending and the right for further amendments to be considered on that reading.

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 4150, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4150) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

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 4233, Relating generally to fraudulent transfers.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4233) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendments pending and the right for further amendments to be considered on that reading.

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 4320, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4320) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

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. House Bill 4324, Relating to the employment of individuals by municipal paid fire departments under civil service.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4324) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

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 4345, Relating to limitations on permits for growers, processors and dispensaries of medical cannabis.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4345) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

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. House Bill 4488, Relating to the Hatfield-McCoy Recreation Authority.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 7, 2018;

And reports the same back with the recommendation that it do pass, as amended.

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4488) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the further request of Senator Ferns, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

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 4607, Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails.

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.

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4607) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 8:25 p.m. tonight:

Eng. Com. Sub. for House Bill 2995, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

At the respective requests of Senators Facemire and Romano, unanimous consent being granted, Senators Facemire and Romano addressed the Senate regarding Braxton County High School's basketball team defeating Robert C. Byrd High School in the sectional tournament.

Thereafter, at the request of Senator Ojeda, and by unanimous consent, the remarks by Senators Facemire and Romano were ordered printed in the Appendix to the Journal.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Ferns, at 8:28 p.m., the Senate adjourned until tomorrow, Friday, March 9, 2018, at 10 a.m.

FRIDAY, MARCH 9, 2018

The Senate met at 11:20 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Keith Tyler, State Director of the Fellowship of Christian Athletes, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Richard N. Ojeda II, a senator from the seventh district.

Pending the reading of the Journal of Thursday, March 8, 2018,

At the request of Senator Rucker, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for Senate Bill 51, Relating to domestic relations.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Foster, Harshbarger, and Isner.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Smith, and Woelfel.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Senate Bill 282, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Hanshaw, Ambler, and Byrd.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Boso, Maynard, and Palumbo.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendments, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Senate Bill 545, Relating to driving privileges and requirements for persons under 18.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Zatezalo, Hollen, and Isner.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Weld, and Woelfel.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

At the request of Senator Ferns, and by unanimous consent, the Senate proceeded to the sixth order of business.

Senators Takubo, Rucker, and Plymale offered the following resolution:

Senate Concurrent Resolution 64—Requesting the West Virginia Legislature designate Sunday, May 6, 2018, as a day of recognition of World Moyamoya Awareness Day in West Virginia.

Whereas, Moyamoya is a rare neurovascular condition seen in children and adults in which the walls of the internal carotid arteries—the vessels that supply blood to important areas of the brain—become thickened and narrowed, reducing blood flow; and

Whereas, This blockage of flow puts patients at great risk of transient ischemic attacks and strokes; and

Whereas, Moyamoya is not a well-known disease and can often go misdiagnosed or undetected; and

Whereas, While there is no known medical treatment capable of reversing or stabilizing progression of Moyamoya syndrome it can progress quickly; and

Whereas, Moyamoya syndrome is more common in children and has higher prevalence in children diagnosed with sickle cell disease or trisomy 21 (Down syndrome); and

Whereas, Awareness is the key to saving lives and early detection and diagnosis provides patients with Moyamoya the best chance of survival; and

Whereas, The good health and wellbeing of the residents of the state are enhanced as a direct result of increased awareness about Moyamoya and research into early detection, causes, and effective treatments; and

Whereas, West Virginia will be aligned with World Moyamoya Day on May 6th to bring awareness to the public and the medical community, prompting early diagnosis; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature designates Sunday, May 6, 2018, as a day of recognition of World Moyamoya Awareness Day in West Virginia; and, be it

Further Resolved, That all citizens are urged to take cognizance of this event and participate fittingly in its observance.

Which, under the rules, lies over one day.

Senators Romano, Beach, Boso, Facemire, Ojeda, and Plymale offered the following resolution:

Senate Concurrent Resolution 65—Requesting the Division of Highways name bridge number 08A003, locally known as the Queen Shoals Bridge, carrying Queen Road on County Route 1 over the Elk River in Clay County, the “U. S. Army SP4 Wilbur Allen Smith Memorial Bridge”.

Whereas, Wilbur Allen Smith, known throughout his life as “Al”, was born to Wilbur Amos Smith and Mary Eloise Rogers on January 8, 1948, in Madison, West Virginia, and he grew up in Clay County on Camp Creek Hill at Bomont, West Virginia; and

Whereas, Wilbur Allen Smith attended Clay County schools, graduated from Clay County High School in 1965, and was a member of the National Honor Society. He also attended Glenville State College for two and one-half years with a goal of becoming a biology teacher; and

Whereas, Wilbur Allen Smith was inducted in the U. S. Army in 1968 and, after training at Fort Bragg, North Carolina, and Fort Polk, Louisiana, he was sent to serve in Vietnam, beginning in October 1968. He served in the First Cavalry Division (Airmobile), an infantry division converted into a new kind of fighting force known as an air assault division for its extensive use of the mobility of helicopters, where he attained the rank of Specialist 4; and

Whereas, On June 2, 1969, two companies of SP4 Wilbur Allen Smith’s division encountered a large number of enemy soldiers in fortified bunkers along the Dong Nai River. What followed was an intense firefight resulting in more than 55 casualties. During the

battle, SP4 Wilbur Allen Smith volunteered to neutralize one of the bunkers and he maneuvered to within 15 feet of the enemy's position. Tragically, he was killed by the explosion of an enemy rocket grenade; and

Whereas, SP4 Wilbur Allen Smith was laid to rest in the Smith Family Cemetery on Camp Creek Hill near Bomont, West Virginia, and he is survived by two sisters and a large extended family who remember his life and spirit with great sentiment; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army SP4 Wilbur Allen Smith and his contributions to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 08A003, locally known as the Queen Shoals Bridge, carrying Queen Road on County Route 1 over the Elk River in Clay County, the "U. S. Army SP4 Wilbur Allen Smith Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SP4 Wilbur Allen Smith Memorial Bridge"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Boso, Maynard, and Plymale offered the following resolution:

Senate Concurrent Resolution 66—Requesting the Division of Highways name bridge number 42-25-21.84 (42SS028), locally known as Hart Chapel Bridge, carrying County Route 25 over the Laurel Fork in Randolph County, the "Robert 'Glen' Schoonover Memorial Bridge".

Whereas, Glen Schoonover was born and raised at the head of Chenoweth Creek Road in Elkins, West Virginia, in Randolph County; and

Whereas, He and his wife Arbutus “Sis” Schoonover were married 70 years on January 5, 2017. They were the parents of six children who they raised on Chenoweth Creek Road; and

Whereas, Glen Schoonover worked at various jobs over the years, but spent the longest time working for and retired from the West Virginia Division of Highways bridge crew as a foreman. During his time with the bridge crew, he worked in many of the counties surrounding Randolph County. At times, Glen Schoonover would travel to work in areas such as Burlington, Webster Springs, and Marlinton; and

Whereas, Glen Schoonover was employed during the Great Flood of 1985, which either damaged or destroyed many of the bridges in his district, requiring him to put in six- and seven-day work weeks to declare bridges safe or to get bridges back to safe status for use; and

Whereas, Over the years Glen Schoonover would place a penny in the completed bridge project that showed what year the bridge was done. It became the “trademark” of Glen Schoonover and his crews. During 2017, one of the two bridges near his home was being redone and his son Clif drove him down to where the crew was working on it to see if the penny was there. They found the penny and shared the story with the crew; and

Whereas, The bridge mentioned above is less than a mile from the Schoonover home where his 89-year-old wife still resides and where his children, grandchildren, close relatives, and friends pass over frequently. What an honor to his memory it would be to name this small blue bridge after him and his work on the bridges in our great state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 42-25-21.84 (42SS028), locally known as Hart

Chapel Bridge, carrying County Route 25 over the Laurel Fork in Randolph County, the “Robert ‘Glen’ Schoonover Memorial Bridge”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Robert ‘Glen’ Schoonover Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

Which, under the rules, lies over one day.

Senators Boley, Beach, Blair, Cline, Facemire, Karnes, Sypolt, Rucker, Maynard, Boso, and Plymale offered the following resolution:

Senate Concurrent Resolution 67—Requesting the Joint Committee on Government Organization to conduct a study to determine how West Virginia state students can improve their educational test scores.

Whereas, The West Virginia State Constitution mandates that “the Legislature shall provide, by general law, for a thorough, and efficient system of free schools”; and

Whereas, West Virginia’s college remediation rates in English Language Arts and are 36 percent and 57 percent, respectively; and

Whereas, Ineffective current national standards and assessments have contributed to a decrease in student achievements; and

Whereas, According to numerous reports, West Virginia students rank as one of the lowest in the nation; and

Whereas, While the number of West Virginia students who take advanced placement exams has more than doubled over the past decade, in 2013 the state ranked 46th in the country for the number of students who actually pass the test to obtain college

credit. The annual AP Report to the Nation showed that 9.8 percent of West Virginia high school graduates achieved a score of three or higher on an AP test in 2012, allowing them to earn college credit. The national average is nearly twice that, at 19.5 percent; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government Organization is hereby requested to conduct a study to determine how West Virginia state students can improve their educational test scores; and, be it

Further Resolved, That the West Virginia Legislature shall conduct an independent study of the current West Virginia education standards, curricula, assessments, teacher licensure requirements, and other relevant factors to determine a state-led approach in obtaining and achieving higher test scores, proficiencies, and achievements rates in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government Organization is hereby requested to conduct a study to determine how West Virginia state students can improve their educational test scores, and increase proficiencies and their achievements rates in West Virginia; and, be it

Further Resolved, That the Joint Committee on Government Organization report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Which, under the rules, lies over one day.

Senators Trump, Ferns, Unger, Prezioso, Boso, and Plymale offered the following resolution:

Senate Resolution 66—Recognizing the 50th anniversary of the establishment of the Commission on Special Investigations and commending the work of its staff.

Whereas, The West Virginia Legislature established a Purchasing Practices and Procedures Commission by concurrent resolution in 1968 during its second extraordinary session to monitor the state's contracting and purchasing practices to prevent abuses that had been uncovered in the past; and

Whereas, The Purchasing Practices and Procedures Commission drafted legislation in 1970 that became the basis for state government purchasing procedures that have continued to the present day and, in that same year, the commission drafted the language for the Bribery and Corrupt Practices Act that is now codified in chapter 61 of the West Virginia Code; and

Whereas, This commission began with a staff of just two employees and the Legislature soon saw the need to dedicate more resources to the mission of the commission, establishing it as a statutory body in 1971; and

Whereas, This commission was and is a unique institution, composed of members of the Legislature and staffed by professional investigators to serve as a special investigatory team for the Legislature; and

Whereas, This commission was renamed in 1980 to be the Commission on Special Investigations and, at that time, the role of the commission was extended to include the investigation of conflicts of interest, bribery of state officials, malfeasance, and misfeasance of state officials and employees; and

Whereas, After these duties were added, the new commission hired Gary Slater, a retired State Trooper who had previously been assigned to the commission, to become its director, a position in which he served for 25 years; and

Whereas, The Commission on Special Investigations has worked with nearly every federal agency that has investigatory powers, including, but not limited to, the Federal Bureau of

Investigation, Internal Revenue Service, Department of Health and Human Services, Secret Service, U. S. Marshall Service, Environmental Protection Agency, and General Services Administration; and

Whereas, This commission and its employees have, over the years, received numerous awards and commendations for outstanding investigation by United States Attorneys in northern and southern districts, state executive agencies, the Attorney General's office, and county prosecutors across the state, as well as uncountable accolades from private citizens and government workers; and

Whereas, The commission staff now includes six investigators who, among them have combined experience of over 200 years in law enforcement and investigation, and who have served the Legislature and the state with distinction; therefore, be it

Resolved by the Senate:

That the Senate hereby recognizes the 50th anniversary of the establishment of the Commission on Special Investigations and commends the work of its staff; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the staff of the Commission on Special Investigations.

At the request of Senator Ferns, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senators Jeffries, Drennan, Stollings, Unger, and Plymale offered the following resolution:

Senate Resolution 67—Congratulating the Winfield High School girls' tennis team for winning the 2017 Class AA-A state championship.

Whereas, The Winfield High School girls' tennis team had an outstanding season on the courts, which ended with the Generals winning the 2017 Class AA-A state championship; and

Whereas, The Winfield High School girls' tennis team was the first public school to win the Class AA-A state championship in 10 years; and

Whereas, The Winfield High School girls' tennis team is led by coaches Julie Anderson and Kim Miller, and consists of players: Sydney Miller, Hannah Nunley, Emily Moore, Brittany Gray, Anicah Smith, Ginny Anderson, Michaela Ross, and Divija Kottapalli; and

Whereas, Every player of the Winfield High School girls' tennis team won an individual state title as well as the team title, a testament to the strength of each individual who formed this dominant team; and

Whereas, The Winfield High School girls' tennis team displayed their talent and determination for an entire season, and is a shining example of what can be accomplished with teamwork, dedication, and spirit; and

Whereas, The 2017 Winfield High School girls' tennis team will be remembered as one of the best tennis teams in West Virginia history; therefore, be it

Resolved by the Senate:

That the Senate hereby congratulates the Winfield High School girls' tennis team for winning the 2017 Class AA-A state championship; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Winfield High School girls' tennis team.

At the request of Senator Drennan, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Ferns, and by unanimous consent, the remarks by Senator Drennan regarding the adoption of Senate Resolution 67 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 11:42 a.m., the Senate recessed to present Senate Resolution 67.

The Senate reconvened at 11:48 a.m. today and proceeded to the seventh order of business.

Senate Concurrent Resolution 56, PFC Franklin L. Conn and SGM Bill Jeffrey Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the eighth order of business.

Eng. Senate Bill 635, Relating to 2019 salary adjustment for employees of DHHR.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 635) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2008, Relating to the Dealer Recovery Program.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2008) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 2655, Defining and establishing the crime of cyberbullying.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2655 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith,

Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2655) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2655—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-3C-14c, relating to creating the offense of cyberbullying of minors; setting forth the essential elements of the offense; defining terms; providing exceptions; and establishing criminal penalties.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Thereafter, at the request of Senator Baldwin, and by unanimous consent, the remarks by Senator Arvon regarding the passage of Engrossed Committee Substitute for House Bill 2655 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for House Bill 2799, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 2799 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2799) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 2869, Providing for paid leave for certain state officers and employees during a declared state of emergency.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2869) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. House Bill 2869—A Bill to amend and reenact §15-5-15a of the Code of West Virginia, 1931, as amended, relating to providing paid leave for certain state employees during a declared state of emergency; authorizing state employees designated as essential members of an emergency aid provider be granted leave from state employment with pay to provide disaster relief or emergency services in areas of the state in which a state of emergency has been declared; capping available leave at fifteen work days in each year; setting manner of calculating employee compensation during leave; requiring reporting to Governor; directing Governor to keep record of total cost; setting limit on available leave based on cost to the state; authorizing supplement from Civil Contingent Fund; providing exceptions for availability of leave; and defining terms.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 2982, Relating to allowing draw games winners to remain anonymous.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-15a. Option for winners of draw games to remain anonymous.

(a) A person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket may remain anonymous:

Provided, That such anonymity only applies to the person's name, personal contact information, and likeness.

(b) If the person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket desires to remain anonymous, he or she shall contact the State Lottery Director in writing or appear at the state lottery headquarters in person, concerning his or her desire to remain anonymous: *Provided, That such a request only permits that the person's name, personal contact information, and likeness remain anonymous. At the time of his or her request to remain anonymous, the person shall provide his or her contact information, including any personal telephone number, residential address, and electronic mail address.*

(c) Any request to remain anonymous may be made by certified mail addressed to the West Virginia State Lottery Director, P.O. Box 2067, Charleston, West Virginia 25327, by electronic mail to an email address that is to be established by West Virginia State Lottery prior to the effective date of this section, or in person at the state lottery headquarters. Once established, the secure email address shall be posted on the West Virginia Lottery's website prior to the effective date of this section.

(d) Upon receiving a request to remain anonymous, the director shall contact the person requesting anonymity and schedule an appointment to meet at any county, regional, or state lottery office to confirm the winning number and to otherwise make arrangements to protect the anonymity of the requesting person.

(e) If a person elects to remain anonymous pursuant to this section, he or she shall remit 5 percent of his or her winnings to the State Lottery Fund.

(f) The requirements of this section are effective on January 1, 2019.

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

§29B-1-4. Exemptions.

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under ~~the provisions of~~ this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical, or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical, or similar file;

(3) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(4) (A) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(B) Records identifying motor vehicles used, and the agencies using them, for undercover investigation activities conducted by state law-enforcement agencies or other agencies that are authorized by this code to use undercover or unmarked vehicles;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents, or manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological, and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document, or manuscript;

(7) Information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared, or maintained to prevent, mitigate, or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement, and other agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications, and network security records, passwords, security codes, or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests, or the results of those tests;

(15) Architectural or infrastructure designs, maps, or other records that show the location or layout of the facilities where computing, telecommunications, or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers and individual customers, consistent with 47 U.S.C. §222;

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility, or to cause injury to another inmate, resident, or to facility personnel;

(20) Information related to applications under §61-7-4 of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided*: That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted:

Provided, however, That information or other records exempted under this subdivision may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes; ~~and~~

(21) Personal information of law-enforcement officers maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, “personal information” means a law-enforcement officer’s social security number, health information, home address, personal address, personal telephone numbers, and personal email addresses and those of his or her spouse, parents, and children as well as the names of the law-enforcement officer’s spouse, parents, and children; and

(22) Information provided by a person when he or she elects to remain anonymous after winning a draw game prize, pursuant to of §29-22-15a of this code.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term “terrorist act” means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act

which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2982), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2982) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 2982—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-15a; and to amend and reenact §29B-1-4 of said code, all relating to allowing certain winners of State Lottery draw games to remain anonymous; providing that a person entitled to collect proceeds exceeding one million dollars from a winning draw game ticket may remain anonymous in regards to his or her name, personal contact information, and likeness; establishing a procedure by which a draw game winner may request anonymity from the State Lottery Director; providing that a draw game winner who elects to remain anonymous must remit 5 percent of his or her winnings to the State Lottery Fund; establishing an effective date; and providing that information

provided when a draw game winner elects to remain anonymous is exempt from disclosure under the Freedom of Information Act.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 3089, Relating to the adoption of instructional resources for use in the public schools.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Jeffries—2.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3089) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4001, Relating to eligibility and fraud requirements for public assistance.

On third reading, coming up in regular order, with the unreported Health and Human Resources committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 9. HUMAN SERVICES.

ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.

§9-2-6. Powers of secretary.

Within limits of state appropriations and federal grants and subject to provisions of state and federal laws and regulations, the secretary, in addition to all other powers, duties, and responsibilities granted and assigned to that office in this chapter and elsewhere by law, is authorized to:

(1) Promulgate, amend, revise and rescind department rules respecting the organization and government of the department and the execution and administration of those powers, duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(2) Promulgate, amend, revise, and rescind department rules and regulations respecting qualifications for receiving the different classes of welfare assistance consistent with or permitted by federal laws, rules and policies, but not inconsistent with state law: *Provided*, That rules and policies respecting qualifications shall permit the expenditure of state funds to pay for care rendered in any birthing center licensed under the provisions of §16-2e-1, *et seq.* of this code by a licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and which care is within the scope of duties for such licensed nurse midwife or midwife as permitted by the provisions of section seven of said article.

(3) Obtain by purchase or lease grounds, buildings, office or other space, equipment, facilities and services as may be necessary for the execution and administration of those powers, duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(4) Sign and execute in the name of the state by the State Department of Health and Human Resources any contract or agreement with the federal government or its agencies, other states, political subdivisions of this state, corporations, associations, partnerships, or individuals: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

(5) Sign and execute a contract to implement professional health care, managed care, actuarial and health care-related monitoring, quality review/utilization, claims processing, and independent professional consultant contracts for the Medicaid program: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains in full force and effect and the secretary retains sole authority to review, approve, and issue changes to contracts issued under the former purchasing process, and is responsible for challenges, disputes, protests, and legal actions related to such contracts.

(6) Establish such special funds as may be required by the federal Social Security Act, as amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of the benefits and provisions thereof relating to the federal-state assistance and federal assistance programs administered by the department and to make payments into and disbursements out of any such special fund or funds in accordance with the requirements of the federal Social Security Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state law and the objects and purposes of this chapter. In addition, the State Department of Health and Human Resources, through the secretary, is hereby authorized to accept any and all gifts or grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose of public assistance programs. No part of this special fund shall revert to the General Revenue Funds of this state. No expenses incurred pursuant to this special fund shall be a charge against the General Funds of this state.

(7) Establish within the department an Office of Inspector General for the purpose of conducting and supervising investigations, performing inspections, evaluations, and review, and ~~for the purpose of~~ providing quality control for the programs of the department. The Office of Inspector General shall be headed by the Inspector General who shall report directly to the secretary. Neither the secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector General or his or her employees from initiating, carrying out, or completing any investigation, ~~quality control~~ inspection, evaluation, review or other activity oversight of public integrity by the Office of the Inspector General. The secretary shall place within the Office of Inspector General any function he or she deems necessary. Qualification, compensation, and personnel practice relating to the employees of the Office of the Inspector General, including that of the position of Inspector General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of Inspector General.

(8) Provide at department expense a program of continuing professional, technical, and specialized instruction for the personnel of the department.

(9) Pay from available funds all or part of the reasonable expenses incurred by a person newly employed by the department in moving his household furniture, effects, and immediate family from his or her place of residence in this state to his or her place of employment in this state; and to pay from available funds all or part of the reasonable expenses incurred by a department employee in moving his or her household furniture, effects, and immediate family as a result of a reassignment of the employee which is considered desirable, advantageous to and in the best interests of the state, but no part of the moving expenses of any one such employee shall be paid more frequently than once in 12 months or for any movement other than from one place of employment in this state to another place of employment in this state.

(10) Establish a program to provide reimbursement to employees of the department whose items of personal property, as

defined by the department by policy, are damaged during the course of employment or other work-related activity as a result of aggressive behavior by a client or patient receiving services from the department: *Provided*, That such reimbursement is limited to a maximum amount of \$250 per claim.

(11) Establish and maintain such institutions as are necessary for the temporary care, maintenance, and training of children and other persons.

(12) Prepare and submit state plans which will meet the requirements of federal laws, rules governing federal-state assistance and federal assistance and which are not inconsistent with state law.

(13) Organize within the department a Board of Review, consisting of a chairman appointed by the secretary and as many assistants or employees of the department as may be determined by the secretary and as may be required by federal laws and rules respecting state assistance, federal-state assistance, and federal assistance, such Board of Review to have such powers of a review nature and such additional powers as may be granted to it by the secretary and as may be required by federal laws and rules respecting federal-state assistance and federal assistance.

(14) Provide by rules review and appeal procedures within the Department of Health and Human Resources as may be required by applicable federal laws and rules respecting state assistance, federal-state assistance, and federal assistance and as will provide applicants for, and recipients of, all classes of welfare assistance an opportunity to be heard by the Board of Review, a member thereof or individuals designated by the board, upon claims involving denial, reduction, closure, delay, or other action or inaction pertaining to public assistance.

(15) Provide by rules, consistent with requirements of applicable federal laws and rules, application forms and application procedures for the various classes of public assistance.

(16) Provide locations for making applications for the various classes of public assistance.

(17) Provide a citizen or group of citizens an opportunity to file objections and to be heard upon objections to the grant of any class of public assistance.

(18) Delegate to the personnel of the department all powers and duties vested in the secretary, except the power and authority to sign contracts and agreements.

(19) Make such reports in such form and containing such information as may be required by applicable federal laws and rules respecting federal-state assistance and federal assistance.

(20) Invoke any legal, equitable, or special remedies for the enforcement of the provisions of this chapter.

(21) Require a provider, subgrantee, or other entity performing services on behalf of the department to comply with all applicable laws, rules, and written procedures pertaining to the program for which the entity is providing or coordinating services, including, but not limited to, policy manuals, statements of work, program instructions, or other similar agreements. When submitting a claim for payment, the entity shall certify that it has complied with all material conditions for payment. Knowingly and intentionally submitting a claim or billing for services performed in material violation of any law, rule, policy, or other written agreement shall constitute fraud and the agreement for provision of services shall terminate. The entity shall be required to repay the department for any payment under the program for which the provider was not entitled, regardless of whether the incorrect payment was the result of department error, fraud, or other cause. A demand for repayment or termination of agreement for provision of services shall be subject to the due process procedures pursuant to §29A-5-1 et seq. of this code. The provisions of this subsection do not apply to fraud in the Medicaid program.

(22) Develop a data analytics pilot program to identify potential fraud and help guide policy objectives to eliminate future

fraud. The Secretary shall submit a report containing the pilot program's results and recommendations to the Joint Committee on Government and Finance no later than December 31, 2020.

§9-7-2. Definitions.

For the purposes of this article:

(1) "Assistance" means money payments, medical care, transportation and other goods and services necessary for the health or welfare of individuals, including guidance, counseling, and other welfare services and shall include all items of any nature contained within the definition of "welfare assistance" in §9-1-2 of this ~~chapter~~ code.

(2) "Benefits" means money payments, goods, services, or any other thing of value.

(3) "Board and Care Facility" means a residential setting where two or more unrelated adults receive nursing services or personal care services.

(4) "Claim" means an application for payment for goods or services provided under the medical programs of the Department of Health and Human Resources.

(5) "Entity" means any corporation, association, partnership, limited liability company, or other legal entity.

(6) "Financial Exploitation" means the intentional misappropriation or misuse of funds or assets of another.

"Fraud" means a knowing misrepresentation, knowing concealment, or reckless statement of a material fact.

(7) "Medicaid" means that assistance provided under a state plan implemented pursuant to the provisions of subchapter nineteen, chapter seven, Title 42, United States Code, as that chapter has been and may hereafter be amended.

(8) "Person" means any individual, corporation, association, partnership, proprietor, agent, assignee, or entity.

(9) “Provider” means any individual or entity furnishing goods or services under the medical programs of the Department of Health and Human Resources.

(10) “Unit” means the Medicaid Fraud Control Unit established under §9-7-1 of this ~~article~~ code.

§9-7-5. Bribery; false claims; conspiracy; criminal penalties; failure to maintain records.

(a) A person shall not solicit, offer, pay, or receive any unlawful remuneration, including any kickback, rebate or bribe, directly or indirectly, with the intent of causing an expenditure of moneys from the medical services fund established pursuant to §9-4-2 of this ~~chapter~~ code, which is not authorized by applicable laws or rules and regulations.

(b) A person shall not make or present or cause to be made or presented to the Department of Health and Human Resources a claim under the medical programs of the Department of Health and Human Resources knowing the claim to be false, fraudulent, or fictitious.

(c) A person shall not enter into an agreement, combination or conspiracy to obtain or aid another to obtain the payment or allowance of a false, fraudulent, or fictitious claim under the medical programs of the Department of Health and Human Resources.

(d) Any person found to be in violation of §9-7-5 (a), §9-7-5(b) or §9-7-5(c) of this ~~section~~ code is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than 10 years or shall be fined not to exceed \$10,000, or both fined and imprisoned.

(e) Any person who, having submitted a claim for or received a benefit, payment, or allowance under the medical programs of the Department of Health and Human Resources, knowingly fails to maintain such records as are necessary to disclose fully the nature of a good or service for which a claim was submitted or benefit, payment, or allowance was received, or such records as are

necessary to disclose fully all income and expenditures upon which rate of payment were based, for a period of at least five years following the date on which payment was received, shall be guilty of a misdemeanor and, upon conviction, may be imprisoned in a state correctional facility not to exceed one year or may be fined up to \$1,000, or both fined and imprisoned. Any person who knowingly destroys such records within five years from the date the benefit, payment, or allowance was received, shall be guilty of a felony, and may be imprisoned in a state correctional facility not less than one nor more than 10 years or may be fined not to exceed \$10,000, or both fined and imprisoned.

§9-7-6. Civil remedies; statute of limitations.

(a) ~~Any person, firm, corporation, or other entity which willfully, by means of a false statement or representation, or by concealment of any material fact, or by other fraudulent scheme, devise or artifice on behalf of himself, herself, itself, or others, obtains or attempts to obtain benefits or payments or allowances under the medical programs of the Department of Health and Human Resources to which he or she or it is not entitled, or, in a greater amount than that to which he or she or it is entitled, makes or attempts to make, or causes to be made, a claim for benefits, payments, or allowances under the medical programs of the Department of Health and Human Resources, when such person, firm, corporation, or entity knows, or reasonably should have known, such claim to be false, fictitious, or fraudulent, or fails to maintain such records as are necessary shall be liable to the Department of Health and Human Resources in an amount equal to three times the amount of such benefits, payments, or allowances to which he or she or it is not entitled, and shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation.~~

(b) No criminal action or indictment need be brought against any person, firm, corporation or other entity as a condition for establishing civil liability hereunder.

(c) A civil action under this section may be prosecuted and maintained on behalf of the Department of Health and Human

Resources by the Attorney General and the Attorney General's assistants or a prosecuting attorney and the prosecuting attorney's assistants or by any attorney in contract with or employed by the Department of Health and Human Resources to provide such representation.

(d) Any civil action brought under this section shall be brought within five years from the time the false, fraudulent, or fictitious claim was made. Claims will be judged based on the Medicaid or program rules in existence at the time of the claim submission.

ARTICLE 8. ELIGIBILITY AND FRAUD REQUIREMENTS FOR PUBLIC ASSISTANCE.

§9-8-1. Definitions.

As used in this article:

“Able bodied adult” means a person between the ages of 18 and 49 years of age without dependents and who does not meet any of the exemptions set forth in §9-8-2(a) of this code.

“Applicant” or “recipient” means a person who is applying for, or currently receiving, public assistance in the State of West Virginia from the department.

“Department” means the West Virginia Department of Health and Human Resources.

“Electronic benefit transfer” or “EBT” means any electronic system which allows the department to issue and track benefits via a magnetically encoded payment card.

“Good cause” means circumstances beyond the household's control, including, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, natural disaster, a declared state of emergency due to inclement weather, or the unavailability of transportation.

“Public assistance” means government benefits provided to qualifying individuals on the basis of need to provide basic necessities to individuals and their families. These shall include, but are not limited to, the following:

(A) Supplemental Nutrition Assistance Program, or SNAP;

(B) Medicaid; and

(C) Temporary Assistance to Needy Families, or TANF.

“Secretary” means the Secretary of the West Virginia Department of Health and Human Resources.

“Work” or “working” means:

(A) Work in exchange for money;

(B) Work in exchange for goods or services (“in kind” work);

(C) Unpaid work, verified under standards established by the department in rule; or

(D) Any combination thereof.

§9-8-2. Work requirements.

(a) All able bodied adults may receive Supplemental Nutrition Assistance benefits for only three months in each 36-month period. Recipients are exempt from the time limit if they are disabled, pregnant, responsible for the care of a child, or an incapacitated adult as defined in §61-2-29 of this code, participating regularly in a drug or alcohol treatment program, are receiving unemployment compensation, have been medically certified as unfit for work, are employed or are participating and complying with the requirements of a work, education, or volunteer program for at least 20 hours per week, or are veterans receiving disability compensation from the U.S. Department of Veterans Affairs.

(b) Beginning October 1, 2018, the department shall discontinue and shall not seek federal waivers granted pursuant to 7 U.S.C. § 2015(o) for Able Bodied Adults Without Dependents

(ABAWD) for any county that cannot be demonstrated to have, through data in conformance with U.S. Bureau of Labor Statistics methodology as specified in 7 CFR §273.24(f)(2), a recent 12-month average unemployment rate above 10 percent; a recent 24-month average unemployment rate 20 percent above the national average for the same 24-month period; qualification for extended unemployment benefits; or designation as a “labor surplus area” by the U.S. Department of Labor. These waivers exempt able bodied adults with no children from work requirements for receipt of SNAP benefits.

(c) The department shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability, no later than October 1, 2020, on the employment impact of ABAWD requirements in those counties where they were implemented as of October 1, 2018. The report shall include, on a county-by-county basis, information on the number of SNAP recipients subject to work requirements; the number exempted from work requirements and the reasons for exemption; the number of applicants denied benefits due to non-compliance with work requirements; the dollar amount of benefits withheld due to non-compliance; the estimated fiscal impact on SNAP retailers of withholding those benefits; the number of recipients who engaged in work, education, or volunteerism in order to maintain benefits; the efforts made to assist recipients with meeting work requirements in order to maintain benefits; and any such recommendations pertaining to work requirements as the department deems advisable.

(d) If a recipient resides in a county subject to the provisions of this article, an applicant shall be deemed as complying with the requirements of a work, education, or volunteer program if any of the following requirements are satisfied:

(1) Working at least 20 hours per week, averaged monthly, or 80 hours a month;

(2) Participating in, and complying with, the requirements of a work force training program of 20 hours per week, as determined by the department in rule;

(3) Volunteering 20 hours a week, as determined by the department in rule;

(4) Any combination of working, volunteering and/or participating in a work program for a total of 20 hours per week, as determined by the department in legislative rule; or

(5) Participating in, and complying with, a workfare program as set out in 7 C.F.R. 273.24(a)(3).

(e) As determined by the department, if a recipient would have worked an average of 20 hours per week but missed some work for good cause, the recipient shall be considered to have met the work requirement if the absence from work is temporary and the recipient retains his or her job. Good cause includes circumstances beyond the household's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, natural disaster, a declared state of emergency due to inclement weather, or the unavailability of transportation.

(f) If the department determines that a waiver, or an amendment to a waiver, is necessary to implement a policy that complies with 7 C.F.R. 273.24, it shall request the waiver or the amendment to the waiver from the United States Department of Agriculture.

(g) The department shall propose legislative rules in accordance with the provisions of this code for a plan for implementation of the requirements set forth in this section in counties that are subject to the requirements set forth in §9-8-2 (d) of this section code.

§9-8-3. Income and identity verification.

(a) By December 31, 2018, the department shall redesign an existing system or establish a new computerized income, asset, and identity eligibility verification system or contract with a third-party vendor to verify eligibility, eliminate the duplication of assistance, and deter waste, fraud, and abuse in each public assistance program which it administers.

(b) The department may contract with a third-party vendor to develop a system to provide a service or verify income, assets, and identity eligibility of applicants to prevent fraud, misrepresentation, and inadequate documentation when determining eligibility for public assistance. This system or service shall be accessed prior to determining eligibility, periodically between eligibility redeterminations, and during eligibility redeterminations and reviews. The department may contract with a vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

(c) A contract made pursuant to this section may not include a provision that provides the vendor with a monetary incentive for reducing the number of recipients.

(d) Nothing in this article precludes the department from continuing to conduct additional eligibility verification processes currently in practice.

§9-8-4. Eligibility verification.

All applications for benefits must be processed through a system as set forth in this article. Complete applications, including the interview, shall be processed within 10 days of receipt or the maximum period required by federal law. Prior to determining eligibility, the department shall access information for every applicant from federal, state, and other sources: *Provided*, That such access does not violate any federal law.

§9-8-5. Identity authentication.

(a) Prior to awarding public assistance, applicants for benefits must complete a computerized identity authentication process to confirm the identity of the applicant. This shall be done with a knowledge-based questionnaire consisting of financial and/or personal questions. The questionnaire must contain questions tailored to assist persons without a bank account or those who have poor access to financial and banking services or who do not have an established credit history. The questionnaire may be submitted online, in-person, or via telephone.

(b) The department shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability regarding the feasibility of implementing the photo EBT card option under 7 U.S.C. § 2016(h)(9). The study shall address certain operational issues to ensure that state implementation would be consistent with all federal requirements, and that program access is protected for participating households, including, but not limited to, allowing the recipient to designate permitted users for purposes of utilizing the photo EBT card.

§9-8-6. Case review.

(a) If the information obtained from the review provided in this article does not result in the department finding a discrepancy or change in an applicant's or recipient's circumstances affecting eligibility, the department shall not take any further action and shall continue processing the application.

(b) If the review results in a discrepancy, the department shall promptly redetermine eligibility.

§9-8-7. Notice and right to be heard.

(a) An applicant shall be given written notice and the opportunity to explain any issues with the application or redetermination as set forth in §9-8-6 of this code. Self-declarations by applicants or recipients shall be accepted as verification of categorical and financial eligibility if no other verification source is available. In cases requiring expedited services an applicant's statement may be temporarily accepted until such time as verification is possible.

(b) The notice given to the applicant or recipient is required to describe the circumstances of the issue, the manner in which the applicant or recipient may respond, and the consequences of failing to take action. If the applicant does not respond timely as required by federal law, the department shall take appropriate action. The department may request additional information as it finds necessary to reach a decision.

(c) An individual may respond in writing, electronically, or verbally. If an individual responds verbally, staff shall note the time and contents of the response in the individual's file. The response by the individual may:

(1) Disagree with the findings of the department. The department shall reinvestigate the matter if the applicant or recipient disagrees. If the department finds that there has been an error, the department shall take immediate action to correct it. If the department determines that there is no error, the department shall determine the effect of the response on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient; or

(2) Agree with the findings of the department. The department shall determine the effect on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient.

(d) If the applicant fails to respond to the notice, the department shall deny or discontinue assistance for failure to verify information. Eligibility for assistance may not be established or reestablished until the issue has been resolved.

§9-8-8. Referrals for fraud, misrepresentation or inadequate documentation.

(a) After the case review as set forth in §9-8-6 of this code, the department shall refer cases of suspected fraud to the Office of Inspector General within the department. That office shall take appropriate action, including civil penalties or referral to an appropriate prosecuting attorney for criminal prosecution.

(b) In cases of substantiated fraud, upon conviction, the state shall review all appropriate legal options. These may include, but are not limited to, removal from other public assistance programs and garnishment of wages or state income tax refunds until the department recovers an equal amount of benefits fraudulently claimed.

(c) The department may refer suspected cases of fraud, misrepresentation, or inadequate documentation to appropriate agencies, divisions, or departments for review of eligibility issues in other public assistance programs. This should also include cases in which an individual is determined to be no longer eligible for the original program.

§9-8-9. Reporting to the Governor and Legislature.

The department shall prepare an annual report by January 15 each year to the Governor and Legislative Oversight Commission on Health and Human Resources Accountability. The report shall contain information on the effectiveness and general findings of the eligibility verification system, including the number of cases reviewed, the number of case closures, the number of referrals for criminal prosecution, recovery of improper payment, collection of civil penalties, the outcomes of cases referred to the Office of Inspector General, and any savings that have resulted from the system.

§9-8-10. Prohibitions on use of electronic benefit transfer cards.

(a) To ensure that public assistance program funds are used for their intended purposes, funds available on electronic benefit transfer cards may not be used to purchase alcohol, liquor or imitation liquor, cigarettes, tobacco products, bail, gambling activities, lottery tickets, tattoos, travel services provided by a travel agent, money transmission to locations abroad, sexually oriented adult materials, concert tickets, professional or collegiate sporting event tickets, or tickets for other entertainment events intended for the general public.

(b) Electronic benefit transfer card transactions are prohibited at all casinos, gaming establishments, tattoo parlors, massage parlors, body piercing parlors, spas, nail salons, lingerie shops, vapor cigarette stores, psychic or fortune-telling businesses, bail bond companies, video arcades, movie theaters, swimming pools, cruise ships, theme parks, dog or horse racing facilities, pari-mutuel facilities, sexually oriented businesses, retail

establishments which provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, and businesses or retail establishments where minors under age 18 are not permitted.

(c) Upon enrollment, the department shall provide all applicants with an itemized list of prohibited purchases, including those specified in this section, and make such list available on the department's website.

(d) If a recipient is found to have violated the provisions of this section, the department shall issue a warning in writing to the recipient. The recipient is subject to disqualification of benefits for up to three months following the first offense, for up to one year following the second offense, and a permanent termination of benefits following the third offense, unless expressly prohibited by federal law.

§9-8-11. Tracking out-of-state spending.

(a) The department shall post on its website and provide to the Joint Committee on Government and Finance a report of Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families benefit spending on or before January 15 of each year.

(b) The report required by this section shall include:

(1) The dollar amount and number of transactions of Supplemental Nutrition Assistance Program benefits that are accessed or spent out-of-state, by state;

(2) The dollar amount and number of transactions of Temporary Assistance for Needy Families benefits that are accessed or spent out-of-state, by state;

(3) The dollar amount, number of transactions and times of transactions of Supplemental Nutrition Assistance Program benefits that are accessed or spent in-state, by retailer, institution or location; and

(4) The dollar amount, number of transactions and times of Temporary Assistance for Needy Families transactions of benefits that are accessed or spent in-state, disaggregated by retailer, institution, or location.

(c) The report required pursuant to this section shall not identify individual recipients.

§9-8-12. Rulemaking.

The secretary may promulgate rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code which he or she finds necessary to effectuate the provisions of this article.

CHAPTER 61. CRIMES AND PUNISHMENT.

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-54. Taking identity of another person; penalty.

Any person who knowingly takes the name, birth date, social security number, or other identifying information of another person, without the consent of that other person, with the intent to fraudulently represent that he or she is the other person for the purpose of making financial or credit transactions in the other person's name, or for the purpose of gaining employment, is guilty of a felony and, upon conviction, shall be punished by confinement in the penitentiary not more than five years, or fined not more than \$1,000, or both: *Provided*, That the provisions of this section do not apply to any person who obtains another person's drivers license or other form of identification for the sole purpose of misrepresenting his or her age.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4001), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4001 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Ojeda, Plymale, Prezioso, Rucker, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Beach, Facemire, Jeffries, Palumbo, Romano, and Stollings—6.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4001—A Bill to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §9-7-2, §9-7-5, and §9-7-6 of said code; to amend said code by adding thereto a new article, designated §9-8-1, §9-8-2, §9-8-3, §9-8-4, §9-8-5, §9-8-6, §9-8-7, §9-8-8, §9-8-9, §9-8-10, §9-8-11, and §9-8-12; and to amend and reenact §61-3-54 of said code, all relating to investigations, inspections, evaluations, and review conducted by the Department of Health and Human Resources to prevent fraud and abuse; disenrolling providers who commit fraud and requiring repayment; defining fraud as it relates to Medicaid; authorizing penalties against providers for failure to keep medical records for a specific time period; authorizing a civil cause of action for fraud when a person or entity knew or should have known a claim to be false; enlarging the statute of limitations to file health care fraud civil actions; requiring a data analytics pilot program; requiring a report on the pilot project to the Legislature; defining terms relating to public assistance; requiring the Department of Health and Human Resources to implement work

requirements for applicants of Supplemental Nutrition Assistance Program (SNAP); to limit recipients to 3 months of benefits in any 36-month period unless the recipient is working or participating in a work, educational, or volunteer program for at least 20 hours a week; requiring discontinuance of a federal waiver in certain counties; requiring a study of the impact of the SNAP work requirements in those counties where they were implemented; eliminating the federal waiver statewide within a certain time-period; requiring a report to the legislature; establishing work requirements; authorizing rulemaking; requiring a design or establishment of a computerized income, asset, and identity verification system for each public assistance program administered by the Department of Health and Human Resources; allowing for contracting with a third-party vendor; setting out required contract terms; requiring accessing information of various federal, state, and miscellaneous sources for eligibility verification; requiring identity authentication as a condition to receive public assistance; requiring the department to study the feasibility of requiring photos on EBT cards; specifying procedures for case review of public assistance benefits; setting forth notice requirements and right to a hearing; requiring referrals for fraud, misrepresentation, and inadequate documentation; authorizing referrals of suspected cases of fraud for criminal prosecution; requiring report to the Governor and Legislature; setting forth prohibitions on the use of an electronic benefit transfer card; tracking out-of-state spending of SNAP and TANF benefits; providing for rulemaking; and providing a penalty for taking the identity of another person for the purpose of gaining employment.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Stollings regarding the passage of Engrossed Committee Substitute for House Bill 4001 were ordered printed in the Appendix to the Journal.

Eng. Com. Sub. for House Bill 4002, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Beach, Facemire, and Romano—3.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4002) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4006, Revising the processes through which professional development is delivered for those who provide public education.

On third reading, coming up in regular order, was read a third time.

Pending extended discussion,

At the request of Senator Ferns, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar.

Eng. Com. Sub. for House Bill 4009, State Settlement and Recovered Funds Accountability Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

(Senator Palumbo in the Chair.)

(Senator Carmichael, Mr. President, in the Chair.)

The question being “Shall Engrossed Committee Substitute for House Bill 4009 pass?”

On the passage of the bill, the yeas were: Arvon, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—22.

The nays were: Azinger, Beach, Facemire, Jeffries, Ojeda, Plymale, Prezioso, Romano, Rucker, Stollings, and Woelfel—11.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4009) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4009—A Bill to repeal §5-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5-3A-1, §5-3A-2, §5-3A-3, §5-3A-4, §5-3A-5, and §5-3A-6, all relating to creating the state Settlement and Recovered Funds Accountability Act; providing a short title; setting forth legislative findings; directing that recovered funds and assets to be deposited into the State Treasury in the General Revenue Fund of the state, and providing exceptions; directing that certain recovered funds and assets be held in trust to be deposited into a special revenue account in the State Treasury; requiring legislative appropriation of those funds and assets; creating two special revenue funds in the state treasury, known as the Consumer Protection Recovery Fund and the Consumer Protection Restitution Fund; requiring annual transfer of monies exceeding \$7 million in the Consumer

Protection Recovery Fund to the General Revenue Fund; requiring for disbursement of funds from the Consumer Protection Recovery Fund; requiring transfer of funds from the Consumer Protection Recovery Fund into the Consumer Protection Recovery Fund; authorizing the deposit and expenditure of attorney fees, expenses and costs awarded to the Attorney General from the fund; prohibiting agreements to settlement or agreement terms that are contrary to the provisions of law; requiring reporting by the Attorney General to report annually as to the receipts and expenditures of the funds and the disposition of causes; and repealing provisions requiring the Attorney General to deposit all fees received for representing the state into the General Revenue Fund.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Azinger, Beach, Facemire, Jeffries, Ojeda, and Romano—6.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4009) takes effect July 1, 2018.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Following a point of inquiry to the President, with resultant response thereto,

At the request of Senator Beach, and by unanimous consent, Senator Beach addressed the Senate regarding a letter he wrote requesting the Governor appoint six additional women to the Public Employees Insurance Task Force.

Thereafter, at the request of Senator Prezioso, and by unanimous consent, the remarks by Senator Beach were ordered printed in the Appendix to the Journal.

The Senate then resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4036, Increasing the maximum salaries of family case coordinators and secretary-clerks.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4036) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4150, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018,

for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page three, section five hundred one, line fifty-five, after the word “number” by striking out the comma and the word “location”.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4150), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4150 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4150) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

On motion of Senator Ferns, at 1:12 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 2:41 p.m. today and resumed consideration of the remainder of its third reading calendar, the next bill coming up in numerical sequence being

Eng. Com. Sub. for House Bill 4156, Establishing the qualifications of full and part time nursing school faculty members.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Takubo, the following amendment to the bill was reported by the Clerk and adopted:

On page four, section eight, line nineteen, after the word “if” by inserting the words “approved by the board, or”.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4156), as amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4156) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4156—A Bill to amend and reenact §30-7-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-7-5 of said code; to amend §30-7A-8 of said code; and to amend said code by adding thereto a new section, designated §30-7-5a, all relating nursing schools and practical nursing schools and nursing and practical nursing education; modifying accreditation standards for nursing schools and practical nursing schools by the boards; setting out school of nursing faculty requirements; establishing the qualifications of full and part time nursing school faculty members; granting exceptions; and defining a term.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4156) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4157, Eliminating the refundable exemption for road construction contractors.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4157) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4157) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4166, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4166) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4166) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4187, Business Liability Protection Act.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Plymale, Prezioso, Romano, Rucker, Smith, Stollings,

Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Palumbo—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4187) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4187—A Bill to amend and reenact §61-7-14 of the code of West Virginia, 1931, as amended, relating to creating the Business Liability Protection Act; providing definitions; prohibiting owners, lessees, or other persons charged with the care, custody, and control of real property from prohibiting any customer, employee, or invitee from possessing a legal owned firearm under certain circumstances; prohibiting owners, lessees, or other persons charged with the care, custody, and control of real property from violating certain privacy rights of a customer, employee, or invitee; providing that no employer may condition employment under certain circumstances; providing that no owner, lessee, or other person charged with the care, custody, and control of real property may prevent a customer, employee, or invitee from entering the parking lot because the motor vehicle contains a legal firearm; providing immunity and limitations of liability; providing that the Attorney General is authorized to enforce the such provisions; providing customers, employees, and invitees with a civil cause of action; and providing forms of relief and civil penalties.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4217, Permitting an attending physician to obtain a patient's autopsy report.

On third reading, coming up in regular order, was read a third time.

At the request of Senator Ferns, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4006, already placed in that position.

Eng. Com. Sub. for House Bill 4233, Relating generally to fraudulent transfers.

On third reading, coming up in regular order, with the unreported Judiciary committee amendments pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section one, line thirty-five, by striking out the words "paragraph (ii)" and inserting in lieu thereof the words "subparagraph (ii) of this paragraph";

On page three, section one, line forty-two, by striking out the words "paragraph (iv)" and inserting in lieu thereof the words "subparagraph (iv) of this paragraph";

On page three, section one, line forty-nine, by striking out the words "paragraph (iii)" and inserting in lieu thereof the words "subparagraph (iii) of this paragraph";

On page seven, section six, line eleven, after the word "subdivision (a)" by inserting the words "of this subsection";

On page seven, section six, line fifteen, after the word "subdivision (a)" by inserting the words "of this subsection";

On page eight, section eight, lines twenty-five and twenty-six, by striking out the words “article nine of the uniform commercial code” and inserting in lieu thereof the words “§46-9-1 *et seq.* of this code”;

On page nine, section eight, line forty, by striking out the words “subparagraph (i) or (ii), paragraph A, subdivision (1), subsection (b) of this section” and inserting in lieu thereof the words “subdivision (1) or (2), subsection (b) of this section”;

On page nine, after section thirteen, by striking out the section heading and inserting a new section heading to read as follows:

§40-1A-14. Application to and recognition of a foreign series organization.

On page ten, section fourteen, line four, by striking out the words “subdivision (2) of this subsection” and inserting in lieu thereof the words “the definition of a series organization in §40-1A-14 of this code”;

And,

On page ten, section fourteen, after line twenty, by inserting a new subsection, designated subsection (c), to read as follows:

(c) A series organization includes a foreign series limited liability company, or one or more protected series thereof, which is organized as a series organization under the laws of another state or jurisdiction, and shall be recognized as a foreign series limited liability company in this state pursuant to, and in compliance with the provisions of §31B-10-1 *et seq.* of this code.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4233), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan,

Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4233) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4233—A Bill to amend and reenact §40-1A-1, §40-1A-2, §40-1A-4, §40-1A-5, §40-1A-6, and §40-1A-8 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto three new sections, designated §40-1A-13, §40-1A-14, and §40-1A-15, all relating generally to fraudulent transfers and voidable transactions; establishing that a presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence; providing that a creditor making a claim for relief has the burden of proving the elements of the claim for relief by a preponderance of the evidence; setting forth rules regarding the defenses, liability and protection of transferees; establishing the governing law; providing for application to series organizations; defining terms; providing that each series organization and each protected series of the organization is a separate person; providing that a series organization includes a foreign series limited liability company; providing for the limiting, modifying or superseding of the federal Electronic Signatures in Global and National Commerce Act; and adding and modifying definitions and headings.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4251, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4251) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4251—A Bill to amend and reenact §18B-2A-1 of the Code of West Virginia, 1931, as amended, relating to certain higher education institution boards of governors membership; permitting officers, employees, or members of any other board of governors outside of this state and employees of any institution of higher education outside of this state to be appointed to a board of governors; and including, for institutions that have no classified employees, a member from the nonclassified employees.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4270, Providing for the timely payment of moneys owed from oil and natural gas production.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4270) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4270—A Bill to amend and reenact §22-6-22 of the Code of West Virginia, 1931, as amended, and to amend said code by adding a new chapter, designated §37B-1-1, §37B-1-2, and §37B-1-3, all relating generally to real property; providing for quarterly reporting to the West Virginia Department of Environmental Protection and publication of same; providing rule-making authority; requiring specified information to be remitted with certain payments to interest owners; providing for written request in the event an interest owner does not receive the required information; providing for a period to provide the required information beginning when the operator or producer receives the written request for information; providing for a cause of action to enforce compliance; providing for the accumulation of proceeds under certain circumstances; providing for timely payment of moneys owed from oil and natural gas production; and establishing interest penalties for certain late payments.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 4251, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

Passed by the Senate in earlier proceedings today,

The bill still being in the possession of the Senate,

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sybolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4251) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4320, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

On third reading, coming up in regular order, with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page four, section one hundred one, after line thirteen, by inserting a new subdivision, designated subdivision (9), to read as follows:

(9) Exercise authority over the content of electronic communications, as defined in 18 U.S.C. Section 2510(12) sent or received by the principal.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4320), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4320) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4324, Relating to the employment of individuals by municipal paid fire departments under civil service.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment to bill pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-17. Form of application; age and residency requirements; exceptions.

(a) The Firemen's Civil Service Commission in each municipality shall require individuals applying for admission to any competitive examination provided for under the civil service provisions of this article or under the rules of the commission to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

(1) His or her full name, residence, and post-office address;

(2) His or her United States citizenship, age, and the place and date of his or her birth;

(3) His or her state of health, and his or her physical capacity for the public service;

(4) His or her business and employments and residences for at least three previous years; and

(5) Any other information ~~as may~~ reasonably be required, touching upon the applicant's qualifications and fitness for the public service.

(b) Blank forms for the applications shall be furnished by the commission, without charge, to all individuals requesting the same.

(c) The commission may require, in connection with the application, certificates of citizens, physicians, and others, having

pertinent knowledge concerning the applicant, as the good of the service ~~may require~~ requires.

(d) Except as provided in subsections (e) and (f) of this section, ~~no~~ the commission may not accept an application for original appointment ~~shall be received~~ if the individual applying is less than 18 years of age or more than 35 years of age at the date of his or her application.

(e) ~~In the event~~ If any applicant formerly served upon the paid fire department of the municipality to which he or she makes application for a period of more than one year, and resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant within a period of two years next preceding the date of his or her application, and at the time of his or her application resides within the corporate limits of the municipality in which the paid fire department to which he or she seeks appointment by reinstatement is located, then the individual ~~shall be~~ is eligible for appointment by reinstatement in the discretion of the Firemen's Civil Service Commission, even though the applicant ~~shall be~~ is over the age of 35 years, and the applicant, providing his or her former term of service so justifies, may be appointed by reinstatement to the paid fire department without a competitive examination. ~~but~~ The applicant shall undergo a medical examination; and if the individual ~~shall be~~ is so appointed by reinstatement to the paid fire department, he or she shall be the lowest in rank in the department next above the probationers of the department and may not be entitled to seniority considerations.

(f) If an individual is presently employed by one paid fire department and is over the age of 35, he or she may make an application to another paid fire department if:

(1) The paid fire department to which he or she is applying is serving a municipality that has elected to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System created in §8-22A-1 *et seq.* of this code: *Provided*, That any individual applying pursuant to this subdivision is to be classified as a new employee for retirement purposes and ~~no~~ prior

employment service ~~can~~ may not be transferred to the West Virginia Municipal Police Officers and Firefighters Retirement System; or

(2) The paid fire department to which he or she is applying is serving a municipality that has elected to participate in the West Virginia Public Employees Retirement System created in §5-10-1 *et seq.* of this code: *Provided*, That any individual applying pursuant to this subdivision is to be classified as a new employee for retirement purposes and ~~no~~ prior employment service ~~can~~ may not be transferred to the West Virginia Public Employees Retirement System, except for individuals and their prior employment service already credited to them in the West Virginia Public Employees Retirement System pursuant to §5-10-1 *et seq.* of this code.

(g) Individuals who are authorized to apply to a paid fire department pursuant to subsection (f) of this section shall be in the lowest rank of the department and ~~may not be~~ are not entitled to seniority considerations.

(h) Any applicant for original appointment ~~must have been a resident for one year, during some period of time prior to the date of his or her application~~ need not be a resident of the municipality or the county in which he or she seeks to become a member of the paid fire department. *Provided*, That if the commission determines it necessary it may consider for original appointment applicants who are not residents of the municipality but who have been residents of the county in which the municipality or any portion of the territory thereof is located for a period of at least one year.

§8-15-20. Appointments from list of ~~eligible~~ eligible applicants; special examinations for electricians or mechanics.

(a) Every position, unless filled by promotion, reinstatement, or reduction, shall be filled only in the manner specified in this section. The appointing officer shall notify the firemen's civil service commission of any vacancy in a position which he or she desires to fill, and shall request the certification of ~~eligibles~~ eligible applicants. The commission shall ~~forthwith~~ immediately certify,

from the eligible list, the names of the three individuals ~~thereon~~ on the eligible list who received the highest averages at preceding competitive examinations held under the civil service provisions of this article within a period of three years next preceding the date of the prospective appointment. The appointing officer shall, ~~thereupon~~, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three certified names ~~so certified~~. *Provided*, That ~~should he make objection if the appointing officer objects~~, to the commission, to one or more of these individuals, for any of the reasons stated in §8-15-19 of this code, and ~~should such~~ the objection ~~be~~ is sustained by the commission, after a public hearing along the lines of the hearing provided for in §8-15-19 of this code, if ~~any such~~ a hearing is requested, the commission shall ~~thereupon~~ strike the name of ~~any such~~ the individual from the eligible list, and certify the next highest name for each individual ~~so~~ stricken. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: *Provided, however*, That after any name has been rejected three times ~~rejected~~ for the same or another position in favor of a name or names below it on the same list, the ~~said~~ name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the ~~foregoing~~ provisions of this section. When an appointment is made under the provisions of this section it shall be, in the first instance, for the probationary period of six months, as provided in §8-15-16 of this code: *Provided further*, That in the event any position as an electrician or mechanic is to be filled in any paid fire department, then the examinations to be given to applicants for either position shall be ~~so~~ drawn ~~as~~ to test only the qualifications of ~~such~~ the applicants in regard to their ability as electricians or mechanics, ~~such~~ the examinations to be special examinations.

(b) If there are not enough eligible applicants to certify a list of three, then the appointing officer may appoint a qualified individual to fill the position.

On motion of Senator Weld, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 4324) was reported by the Clerk and adopted:

On page three, section seventeen, subsection (h), by striking out the word “Any” and inserting in lieu thereof the words “Notwithstanding charter provisions to the contrary, any”.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. H. B. 4324), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4324) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4338—A Bill to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-1-5, §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, §25-1-22, of the Code of West Virginia, 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-

23, §28-5-24 and §28-5-27, of said code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24, §31-20-27, §31-20-27a, §31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, §62-12-15 and §62-12-25 of said code; to repeal §62-13-3, §62-13-4, §62-13-5 and §62-13-6a of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-1-6, §15A-2-1, §15A-2-2, §15A-2-3, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-3-6, §15A-3-7, §15A-3-8, §15A-3-9, §15A-3-10, §15A-3-11, §15A-3-12, §15A-3-13, §15A-3-14, §15A-3-15, §15A-3-16, §15A-3-17, §15A-3-18, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-4-6, §15A-4-7, §15A-4-8, §15A-4-9, §15A-4-10, §15A-4-11, §15A-4-12, §15A-4-13, §15A-4-14, §15A-4-15, §15A-4-16, §15A-4-17, §15A-4-18, §15A-4-19, §15A-4-20, §15A-4-21, §15A-5-1, §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-5-8, §15A-5-9, §15A-6-1, §15A-6-2, §15A-6-3, §15A-6-4, §15A-6-5, §15A-7-1, §15A-7-2, §15A-7-3, §15A-7-4, §15A-7-5, §15A-7-6, §15A-8-1, §15A-8-2, and §15A-8-3; to amend and reenact §19-12A-5 of said code; and to amend and reenact §50-3-2 and §50-3-4a of said code, all relating generally to supervision of persons committed to the custody of the Division of Corrections, Division of Juvenile Services, and the Regional Jail and Correctional Facility Authority; setting forth rules of construction; defining terms; creating Division of Administrative Services within Department of Military Affairs and Public Safety; defining scope of duties for Division of Administrative Services; authorizing appointment of director; setting qualifications for director; providing authority and duties for director; authorizing director to enter into memorandum of understanding with certain agencies to provide services; transferring certain employees, responsibilities, equipment and records to Division of Administrative Services; providing for classified service coverage for certain employees; creating

Division of Corrections and Rehabilitation within Department of Military Affairs and Public Safety; eliminating Division of Corrections and Division of Juvenile Services and transferring powers and authority to Division of Corrections and Rehabilitation; transferring certain powers and authority of Regional Jail and Correctional Facility Authority to Division of Corrections and Rehabilitation; setting forth purpose and legislative intent; requiring chapter be construed in favor of public safety; authorizing appointment of commissioner of Division of Corrections and Rehabilitation; requiring commissioner subscribe to oath and execute bond; abolishing office of Commissioner of Division of Corrections, Director of Juvenile Services, and Executive Director of Regional Jail and Correctional Facility Authority; vesting powers of abolished offices in office of commissioner of Division of Corrections and Rehabilitation; setting salary for commissioner; setting requirements for commissioner; setting powers and duties of commissioner; providing for the hiring of officers and employees of corrections institutions; providing authority for commissioner or designee to manage and administer certain affairs of correctional units and juvenile facilities under the division's jurisdiction; providing powers of superintendents of institutions or correctional units; requiring commissioner to investigate complaints made against superintendents or employees of institutions; requiring preemployment drug screening of prospective correctional employees; providing authority for superintendent and commissioner over employees; providing exceptions; authorizing hiring of correctional officer employees without regard to position on register; providing for compensation of employees; providing for reimbursement or provision of traveling and other expenses under certain circumstances; providing for certain reporting by commissioner and chief officers of institutions to State Auditor; prohibiting special compensation of officers and employees; providing penalties for violations of provision; setting forth certain law-enforcement powers of employees; establishing Corrections Special Operations Team; authorizing commissioner to prescribe design of employee uniforms; providing limitations on commissioner and municipalities with respect to uniform design; establishing criminal penalties for wearing or using uniform,

badge, identification card or insignia with intent to deceive; establishing criminal penalty for falsely representing oneself as officer or employee of division; establishing criminal penalty for employee using position to threaten or coerce any other person to receive benefit; providing exceptions; identifying institutions to be managed by commissioner; authorizing certain contracts; authorizing the establishment of certain work and study release units; authorizing contract with nonprofit or charitable entities; setting terms of placing person in half-way house or transitional housing facility; placing adult persons sentenced to incarceration under the jurisdiction of the commissioner in the custody of the commissioner; authorizing transfer of adult inmates among institutions; granting contracting authority to commissioner for county jails or other incarceration facilities; directing establishment of a per diem rate for felony sentenced inmates; authorizing transfer of mentally disturbed adult prisoners or inmates; directing commissioner evaluate all facilities for most appropriate space to house each type of inmate; requiring consultation with Juvenile Justice Commission regarding current or prospective juvenile facilities; requiring report on evaluation to Joint Committee on Government and Finance; prohibiting conversion of juvenile facilities to adult facilities or adult facilities to juvenile facilities absent legislative authorization; vesting title to certain properties in the state; making commissioner custodian of deeds; authorizing lease of West Virginia penitentiary in Moundsville, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; exempting division from purchasing; providing procedures to be followed when purchasing is done by division; providing conditions for emergency purchasing; authorizing certain agreements with medical schools and higher education institutions; authorizing mutual aid agreements, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; continuing certain funds from Regional Jail and Correctional Facility Authority; providing for transfer of fund administration from Regional Jail and Correctional Facility Authority or its executive director; limiting use of jail funds to certain operations and expenses; authorizing investment under certain circumstances; identifying contents of funds; authorizing certain expenditures of

funds; requiring incarceration of persons by counties in jail facilities; providing exceptions; clarifying authority of circuit and magistrate courts with respect to detention and commitment; requiring payment by county or municipality for per-day cost of incarceration; providing for establishment of per-day cost; capping per-day cost for a period of time; providing conditions for calculating per-day cost; establishing period of time for which county is responsible for costs of housing and maintaining inmates in its facilities; directing preparation of a report on feasibility of phasing out per diem charges; directing contents of report; continuing Jail Operations Partial Reimbursement Fund; establishing source of revenues; providing for use of funds; providing for administration of fund; granting rule-making authority; granting authority to develop policies; continuing legislative rules and policies of former Division of Corrections, Division of Juvenile Services, and Regional Jail and Correctional Facility Authority; authorizing furlough programs; authorizing rule-making; providing certain parameters for furlough program; granting immunity, with certain limitations, to certain persons and entities for claims arising out of furlough program; authorizing electronic monitoring; requiring commissioner charge reasonable fee; providing exceptions; providing for deposit and use of fees; setting parameters for electronic devices; authorizing continuation and establishment of diagnostic and classification subdivisions; requiring all persons committed to the custody of the division to undergo diagnosis and classification; requiring division perform mental health preliminary screenings; authorizing commissioner to transfer inmates; providing conditions for transfer under certain circumstances; authorizing monitoring of inmate telephone calls, inmate mail, and inmate electronic correspondence; requiring notice to inmates of monitoring; providing procedures for and restrictions on monitoring; excepting communications to or from attorneys; requiring promulgation of policy directive establishing record-keeping procedures; providing for use of records when inmate is charged with crimes based on conversations; authorizing establishment of trustee accounts; providing for handling of money and personal property of inmates or residents; requiring certain incarcerated offenders make reimbursement toward cost of incarceration; requiring certain reports concerning the average cost

per inmate; authorizing facility superintendent expend up to one half of inmate's money to satisfy certain obligations; providing for distribution of funds upon inmate departure or death; providing for notice of credit of money credited to former inmate or resident under certain circumstances; directing establishment of inmate or resident benefit funds for each institution; requiring reports on inmate benefit funds; continuing special revenue account; identifying sources of moneys for inmate or resident benefit funds; providing for use of funds in inmate or resident benefit funds; requiring division assist inmates in developing financial plans to meet any child support obligations; directing deduction by superintendent from inmate earnings for all legitimate court-ordered financial obligations; providing for civil judgments awarded to inmate to be subject to deductions for child support, restitution or other court-ordered obligations; directing investment of remaining funds with Municipal Bond Commission; limiting reimbursement rate to medical service providers for services outside division facilities; authorizing assessment of certain reasonable charges against inmates for certain services provided by the state; providing exceptions to authority to assess charges; authorizing interpretive rules; directing preparation and preservation of records for indictment and conviction, or charges and adjudication, and a register containing certain information; authorizing establishment of plant for the manufacture of license plates, road signs, or markers; making it unlawful for state employee or official to obtain license plates, road signs, or markers other than through plant; prohibiting certain persons from making gifts to or receiving gifts from inmates or residents; directing commissioner promulgate disciplinary rules and policies; setting penalties for violations; requiring commutation of certain sentences for good conduct; providing exceptions; setting conditions and procedures for commutation of sentences; authorizing Governor to authorize commissioner to consent to transfer or exchange of inmates in his or her custody in accordance with treaty between United States and a foreign country; providing for handling of mentally ill patients; disallowing mentally ill patients being denied parole or a parole hearing based upon condition; providing for facts to be presented to superintendent if convicted person is believed to be mentally ill, intellectually

disabled, or addicted; providing for application of transfer to be filed; providing for appointment of special counsel for convict who is indigent; providing for notice to convicted person; setting forth process after application for transfer is filed; authorizing establishment of work program for qualified inmates; setting conditions on work program; providing immunity for certain persons and entities; authorizing employment of Director of Employment and Director of Housing for released inmates; setting authority and duties of directors; directing commissioner establish Bureau of Prisons and Jails; directing appointment of assistant commissioner to oversee Bureau of Prisons and Jails; transferring duties and funds of Division of Corrections to Bureau of Prisons and Jails; directing appointment of superintendents for facilities within Bureau of Prisons and Jails; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; requiring commissioner to make space in every adult institution for both jail and prison populations; setting limitations on requirement to house both jail and prison populations in each adult institution; requiring division conduct pretrial risk assessment of person within three calendar days of arrest and placement in jail; directing pretrial risk assessment be provided to magistrate and circuit clerks; making pretrial risk assessment inadmissible evidence; requiring person committed to be housed in jail pay processing fee; directing where processing fee to be credited; directing refund of fee if person is not convicted; authorizing commissioner or employee to refuse certain offenders if offender appears to need medical attention; directing commissioner establish Bureau of Juvenile Services; transferring duties and funds of Division of Juvenile Services to Bureau of Juvenile Services; directing appointment of assistant commissioner to oversee Bureau of Juvenile Services; directing appointment of superintendents for facilities within Bureau of Juvenile Services; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring

deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; directing commissioner establish Bureau of Community Corrections; directing appointment of assistant commissioner to oversee Bureau of Community Corrections; directing appointment of superintendents for facilities within Bureau of Community Corrections; requiring superintendents post bond; authorizing hiring of other assistants and employees by superintendents; providing for supervision of persons on probation or released on parole; directing rules regarding supervision of probationers and parolees; clarifying authority retained by Parole Board; setting powers and duties of state parole officers; authorizing issuance of certificates for state parole officers under certain conditions; continuing Parole Supervision Benefit Fund; authorizing use of money for payment to community corrections program; continuing Regional Jail and Correctional Facility Authority Board; continuing certain powers; transferring certain power and authority to Division of Corrections and Rehabilitation; abolishing certain powers; modifying composition of Regional Jail and Correctional Facility Authority Board; providing for appointment and qualifications of board members; providing for governance by and operation of board; directing authority review per diem cost set by state Budget Office; providing procedures if amount is challenged or believed incorrect; providing certain employees of State Board of Education not subject to supervision and approval of employees of division; making certain employees members of classified service; exempting Division of Corrections and Rehabilitation from requirement to buy certain products from Department of Agriculture; repealing provisions of code related to Division of Corrections; repealing provisions of code related to state correctional and penal institutions; repealing provisions of code related to West Virginia Regional Jail and Correctional Facility Authority; repealing provisions of code related to probation and parole; repealing provisions of code related to corrections management; updating code references; eliminating obsolete language; and making technical corrections.

On motion of Senator Ferns, the Senate reconsidered its action by which immediately hereinbefore it adopted the Government Organization committee amendment to the title of Engrossed House Bill 4324.

The vote thereon having been reconsidered,

[CLERK'S NOTE: The title amendment read into the record and adopted for Engrossed House Bill 4324 was incorrect and was a title amendment for a different bill.]

Thereafter,

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4338, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4338 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Ojeda—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4338) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4338—A Bill to repeal §25-1-1, §25-1-1a, §25-1-3, §25-1-3a, §25-1-3b, §25-1-3c, §25-1-4, §25-1-5, §25-1-5a, §25-1-6, §25-1-7, §25-1-8, §25-1-11, §25-1-11a, §25-1-11b, §25-1-11c, §25-1-11d, §25-1-11e, §25-1-11f, §25-1-13, §25-1-14, §25-1-15, §25-1-16, §25-1-16a, §25-1-17, §25-1-18, §25-1-19, §25-1-20, §25-1-21, §25-1-22, of the Code of West Virginia, 1931, as amended; to repeal §28-5-7, §28-5-8a, §28-5-23, §28-5-24 and §28-5-27, of said code; to repeal §31-20-1, §31-20-1a, §31-20-2, §31-20-3, §31-20-4, §31-20-5, §31-20-5a, §31-20-5b, §31-20-5c, §31-20-5d, §31-20-5e, §31-20-5f, §31-20-5g, §31-20-5h, §31-20-8, §31-20-8a, §31-20-9, §31-20-9a, §31-20-10, §31-20-10a, §31-20-10b, §31-20-11, §31-20-12, §31-20-13, §31-20-14, §31-20-15, §31-20-20, §31-20-22, §31-20-23, §31-20-24, §31-20-27, §31-20-27a, §31-20-28, §31-20-29, §31-20-30, §31-20-30a, §31-20-31, and §31-20-32 of said code; to repeal §62-12-14, §62-12-14a, §62-12-15 and §62-12-25 of said code; to repeal §62-13-3, §62-13-4, §62-13-5 and §62-13-6a of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new chapter, designated §15A-1-1, §15A-1-2, §15A-1-3, §15A-1-4, §15A-1-5, §15A-1-6, §15A-2-1, §15A-2-2, §15A-2-3, §15A-3-1, §15A-3-2, §15A-3-3, §15A-3-4, §15A-3-5, §15A-3-6, §15A-3-7, §15A-3-8, §15A-3-9, §15A-3-10, §15A-3-11, §15A-3-12, §15A-3-13, §15A-3-14, §15A-3-15, §15A-3-16, §15A-3-17, §15A-3-18, §15A-4-1, §15A-4-2, §15A-4-3, §15A-4-4, §15A-4-5, §15A-4-6, §15A-4-7, §15A-4-8, §15A-4-9, §15A-4-10, §15A-4-11, §15A-4-12, §15A-4-13, §15A-4-14, §15A-4-15, §15A-4-16, §15A-4-17, §15A-4-18, §15A-4-19, §15A-4-20, §15A-4-21, §15A-5-1, §15A-5-2, §15A-5-3, §15A-5-4, §15A-5-5, §15A-5-6, §15A-5-7, §15A-5-8, §15A-5-9, §15A-6-1, §15A-6-2, §15A-6-3, §15A-6-4, §15A-6-5, §15A-7-1, §15A-7-2, §15A-7-3, §15A-7-4, §15A-7-5, §15A-7-6, §15A-8-1, §15A-8-2, and §15A-

8-3; to amend and reenact §19-12A-5 of said code,; and to amend and reenact §50-3-2 and §50-3-4a of said code, all relating generally to supervision of persons committed to the custody of the Division of Corrections, Division of Juvenile Services, and the Regional Jail and Correctional Facility Authority; setting forth rules of construction; defining terms; creating Division of Administrative Services within Department of Military Affairs and Public Safety; defining scope of duties for Division of Administrative Services; authorizing appointment of director; setting qualifications for director; providing authority and duties for director; authorizing director to enter into memorandum of understanding with certain agencies to provide services; transferring certain employees, responsibilities, equipment and records to Division of Administrative Services; providing for classified service coverage for certain employees; creating Division of Corrections and Rehabilitation within Department of Military Affairs and Public Safety; eliminating Division of Corrections and Division of Juvenile Services and transferring powers and authority to Division of Corrections and Rehabilitation; transferring certain powers and authority of Regional Jail and Correctional Facility Authority to Division of Corrections and Rehabilitation; setting forth purpose and legislative intent; requiring chapter be construed in favor of public safety; authorizing appointment of commissioner of Division of Corrections and Rehabilitation; requiring commissioner subscribe to oath and execute bond; abolishing office of Commissioner of Division of Corrections, Director of Juvenile Services, and Executive Director of Regional Jail and Correctional Facility Authority; vesting powers of abolished offices in office of commissioner of Division of Corrections and Rehabilitation; setting salary for commissioner; setting requirements for commissioner; setting powers and duties of commissioner; providing for the hiring of officers and employees of corrections institutions; providing authority for commissioner or designee to manage and administer certain affairs of correctional units and juvenile facilities under the division's jurisdiction; providing powers of superintendents of institutions or correctional units; requiring commissioner to investigate complaints made against superintendents or employees of institutions; requiring

preemployment drug screening of prospective correctional employees; providing authority for superintendent and commissioner over employees; providing exceptions; authorizing hiring of correctional officer employees without regard to position on register; providing for compensation of employees; providing for reimbursement or provision of traveling and other expenses under certain circumstances; providing for certain reporting by commissioner and chief officers of institutions to State Auditor; prohibiting special compensation of officers and employees; providing penalties for violations of provision; setting forth certain law-enforcement powers of employees; establishing Corrections Special Operations Team; authorizing commissioner to prescribe design of employee uniforms; providing limitations on commissioner and municipalities with respect to uniform design; establishing criminal penalties for wearing or using uniform, badge, identification card or insignia with intent to deceive; establishing criminal penalty for falsely representing oneself as officer or employee of division; establishing criminal penalty for employee using position to threaten or coerce any other person to receive benefit; providing exceptions; identifying institutions to be managed by commissioner; authorizing certain contracts; authorizing the establishment of certain work and study release units; authorizing contract with nonprofit or charitable entities; setting terms of placing person in half-way house or transitional housing facility; placing adult persons sentenced to incarceration under the jurisdiction of the commissioner in the custody of the commissioner; authorizing transfer of adult inmates among institutions; granting contracting authority to commissioner for county jails or other incarceration facilities; directing establishment of a per diem rate for felony sentenced inmates; authorizing transfer of mentally disturbed adult prisoners or inmates; directing commissioner evaluate all facilities for most appropriate space to house each type of inmate; requiring consultation with Juvenile Justice Commission regarding current or prospective juvenile facilities; requiring report on evaluation to Joint Committee on Government and Finance; prohibiting conversion of juvenile facilities to adult facilities or adult facilities to juvenile facilities absent legislative authorization; vesting title to certain properties in the state; making commissioner custodian of

deeds; authorizing lease of West Virginia penitentiary in Moundsville, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; exempting division from purchasing; providing procedures to be followed when purchasing is done by division; providing conditions for emergency purchasing; authorizing certain agreements with medical schools and higher education institutions; authorizing mutual aid agreements, subject to certain conditions, with approval of secretary of Military Affairs and Public Safety; continuing certain funds from Regional Jail and Correctional Facility Authority; providing for transfer of fund administration from Regional Jail and Correctional Facility Authority or its executive director; limiting use of jail funds to certain operations and expenses; authorizing investment under certain circumstances; identifying contents of funds; authorizing certain expenditures of funds; requiring incarceration of persons by counties in jail facilities; providing exceptions; clarifying authority of circuit and magistrate courts with respect to detention and commitment; requiring payment by county or municipality for per-day cost of incarceration; providing for establishment of per-day cost; capping per-day cost for a period of time; providing conditions for calculating per-day cost; establishing period of time for which county is responsible for costs of housing and maintaining inmates in its facilities; directing preparation of a report on feasibility of phasing out per diem charges; directing contents of report; continuing Jail Operations Partial Reimbursement Fund; establishing source of revenues; providing for use of funds; providing for administration of fund; granting rule-making authority; granting authority to develop policies; continuing legislative rules and policies of former Division of Corrections, Division of Juvenile Services, and Regional Jail and Correctional Facility Authority; authorizing furlough programs; authorizing rule-making; providing certain parameters for furlough program; granting immunity, with certain limitations, to certain persons and entities for claims arising out of furlough program; authorizing electronic monitoring; requiring commissioner charge reasonable fee; providing exceptions; providing for deposit and use of fees; setting parameters for electronic devices; authorizing continuation and establishment of diagnostic and classification subdivisions;

requiring all persons committed to the custody of the division to undergo diagnosis and classification; requiring division perform mental health preliminary screenings; authorizing commissioner to transfer inmates; providing conditions for transfer under certain circumstances; authorizing monitoring of inmate telephone calls, inmate mail, and inmate electronic correspondence; requiring notice to inmates of monitoring; providing procedures for and restrictions on monitoring; excepting communications to or from attorneys; requiring promulgation of policy directive establishing record-keeping procedures; providing for use of records when inmate is charged with crimes based on conversations; authorizing establishment of trustee accounts; providing for handling of money and personal property of inmates or residents; requiring certain incarcerated offenders make reimbursement toward cost of incarceration; requiring certain reports concerning the average cost per inmate; authorizing facility superintendent expend up to one half of inmate's money to satisfy certain obligations; providing for distribution of funds upon inmate departure or death; providing for notice of credit of money credited to former inmate or resident under certain circumstances; directing establishment of inmate or resident benefit funds for each institution; requiring reports on inmate benefit funds; continuing special revenue account; identifying sources of moneys for inmate or resident benefit funds; providing for use of funds in inmate or resident benefit funds; requiring division assist inmates in developing financial plans to meet any child support obligations; directing deduction by superintendent from inmate earnings for all legitimate court-ordered financial obligations; providing for civil judgments awarded to inmate to be subject to deductions for child support, restitution or other court-ordered obligations; directing investment of remaining funds with Municipal Bond Commission; limiting reimbursement rate to medical service providers for services outside division facilities; authorizing assessment of certain reasonable charges against inmates for certain services provided by the state; providing exceptions to authority to assess charges; authorizing interpretive rules; directing preparation and preservation of records for indictment and conviction, or charges and adjudication, and a register containing certain information; authorizing establishment of plant for the manufacture of license

plates, road signs, or markers; making it unlawful for state employee or official to obtain license plates, road signs, or markers other than through plant; prohibiting certain persons from making gifts to or receiving gifts from inmates or residents; directing commissioner promulgate disciplinary rules and policies; setting penalties for violations; requiring commutation of certain sentences for good conduct; providing exceptions; setting conditions and procedures for commutation of sentences; authorizing Governor to authorize commissioner to consent to transfer or exchange of inmates in his or her custody in accordance with treaty between United States and a foreign country; providing for handling of mentally ill patients; disallowing mentally ill patients being denied parole or a parole hearing based upon condition; providing for facts to be presented to superintendent if convicted person is believed to be mentally ill, intellectually disabled, or addicted; providing for application of transfer to be filed; providing for appointment of special counsel for convict who is indigent; providing for notice to convicted person; setting forth process after application for transfer is filed; authorizing establishment of work program for qualified inmates; setting conditions on work program; providing immunity for certain persons and entities; authorizing employment of Director of Employment and Director of Housing for released inmates; setting authority and duties of directors; directing commissioner establish Bureau of Prisons and Jails; directing appointment of assistant commissioner to oversee Bureau of Prisons and Jails; transferring duties and funds of Division of Corrections to Bureau of Prisons and Jails; directing appointment of superintendents for facilities within Bureau of Prisons and Jails; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; requiring commissioner to make space in every adult institution for both jail and prison populations; setting limitations on requirement to house both jail and prison populations in each adult institution; requiring division conduct pretrial risk assessment of person within three calendar days of

arrest and placement in jail; directing pretrial risk assessment be provided to magistrate and circuit clerks; making pretrial risk assessment inadmissible evidence; requiring person committed to be housed in jail pay processing fee; directing where processing fee to be credited; directing refund of fee if person is not convicted; authorizing commissioner or employee to refuse certain offenders if offender appears to need medical attention; directing commissioner establish Bureau of Juvenile Services; transferring duties and funds of Division of Juvenile Services to Bureau of Juvenile Services; directing appointment of assistant commissioner to oversee Bureau of Juvenile Services; directing appointment of superintendents for facilities within Bureau of Juvenile Services; requiring superintendents post bond; setting authority of superintendents; authorizing establishment of imprest fund; authorizing appointment of deputy superintendents; requiring deputy superintendents post bond; authorizing hiring of other assistants and employees by superintendents with approval of commissioner; providing for oversight of employees; directing commissioner establish Bureau of Community Corrections; directing appointment of assistant commissioner to oversee Bureau of Community Corrections; directing appointment of superintendents for facilities within Bureau of Community Corrections; requiring superintendents post bond; authorizing hiring of other assistants and employees by superintendents; providing for supervision of persons on probation or released on parole; directing rules regarding supervision of probationers and parolees; clarifying authority retained by Parole Board; setting powers and duties of state parole officers; authorizing issuance of certificates for state parole officers under certain conditions; continuing Parole Supervision Benefit Fund; authorizing use of money for payment to community corrections program; continuing Regional Jail and Correctional Facility Authority Board; continuing certain powers; transferring certain power and authority to Division of Corrections and Rehabilitation; abolishing certain powers; modifying composition of Regional Jail and Correctional Facility Authority Board; providing for appointment and qualifications of board members; providing for governance by and operation of board; directing authority review per diem cost set by state Budget Office; providing procedures if amount is challenged

or believed incorrect; providing certain employees of State Board of Education not subject to supervision and approval of employees of division; making certain employees members of classified service; exempting Division of Corrections and Rehabilitation from requirement to buy certain products from Department of Agriculture; repealing provisions of code related to Division of Corrections; repealing provisions of code related to state correctional and penal institutions; repealing provisions of code related to West Virginia Regional Jail and Correctional Facility Authority; repealing provisions of code related to probation and parole; repealing provisions of code related to corrections management; updating code references; eliminating obsolete language; and making technical corrections.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Ojeda—1.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4338) takes effect July 1, 2018.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4345, Relating to limitations on permits for growers, processors and dispensaries of medical cannabis.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018,

for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Ferns, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar, with the right to amend on third reading remaining in effect and the unreported Judiciary committee amendment pending.

Eng. Com. Sub. for House Bill 4350, Eliminating the regulation of upholstery.

On third reading, coming up in regular order, with the unreported Government Organization committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Gaunch, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to bill was withdrawn.

On motion of Senator Gaunch, the following amendment to the bill was reported the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**ARTICLE 1A. REGULATION AND CONTROL OF
BEDDING AND UPHOLSTERY BUSINESSES.**

**§47-1A-11. Statements required on tags to be affixed to
bedding.**

(1) Every article of bedding made for sale, sold, or offered for sale shall have attached thereto a tag on which is stated the name of the filling material used, that such material used is new or secondhand and, when required to be sterilized, that such material has been sterilized and the number of the sterilization permit. Such tag shall also contain the name and address of the maker or the

vendor and the registry number, as hereinafter provided, of the maker.

~~(2) Every remade or renovated article of bedding not for sale, before returned to the owner for his or her own use, shall have attached thereto a tag which, in addition to the statements hereinabove required, shall state the name and address of the remaker or renovator or the statement "remade and renovated for" followed by the name and address of the person for whom the article of bedding is renovated.~~

~~(3)~~ (2) In the description of the filling material used on any tag attached to an article of bedding, no term or designation intended or likely to mislead shall be used; but where such article contains more than one material, the amount of such materials shall be stated on the tag and there shall be no variance in excess of 10 percent from the amount stated on the tag: *Provided, however,* That no variance shall be allowed for filling material which is described as "all," "pure," "100%" or terms of similar import.

(4) (3) A complete secondhand article of bedding which has not been remade or renovated may be sold "as is" without being sterilized, but the original tag shall be removed by the vendor and he or she shall attach a tag stating that the article is secondhand – "contents unknown." This requirement shall not apply to articles sold at public auction, the sale of antique furniture, or to a private sale from the home of the owner direct to the purchaser: *Provided, however,* That the exceptions herein stated shall not authorize the sale of an article of bedding that has been exposed to infectious or contagious disease and which, after such exposure, has not been sterilized and approved for use.

§47-1A-14. Annual registration and permit fees.

(a) The annual registration fee for all manufacturers shipping or selling articles of bedding ~~and for upholsterers or renovators, as defined in this article,~~ in the State of West Virginia shall be \$90, payable on the first day of the fiscal year. Any manufacturer, ~~upholsterer or renovator~~ who submits an annual registration fee on

or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(b) The annual sterilizer permit fee shall be \$90, payable on the first day of the fiscal year. Any sterilizer who submits an annual permit fee on or after July 16 shall pay a \$25 late fee in addition to the annual fee.

(c) The fee for reissuing a revoked or expired registration or permit shall be \$90.

(d) All fees paid pursuant to this article shall be paid to the Commissioner of Labor and deposited in an appropriated special revenue account hereby created in the State Treasury to be known as the Bedding and Upholstery Fund and expended for the implementation and enforcement of this article. Through June 30, 2019, Amounts amounts collected which are found from time to time to exceed funds needed for the purposes set forth in this article may be utilized by the commissioner as needed to meet the division's funding obligation-: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4350), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4350) passed.

At the request of Senator Ferns, and by unanimous consent, the unreported Government Organization committee amendment to the title of the bill was withdrawn.

On motion of Senator Gaunch, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4350—A Bill to amend reenact §47-1A-11 and §47-1A-14 of the Code of West Virginia, 1931, as amended, all relating to eliminating the regulation of upholsterers by the Commissioner of Labor; removing tagging requirements for upholsterers; and eliminating annual registration and permit fees for upholsterers.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4389, Expiring funds to the Enterprise Resource Planning System Fund.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4389) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. House Bill 4389—A Bill expiring funds to the balance of the West Virginia Enterprise Resource Planning Board - Enterprise Resource Planning System Fund, fund 9080, fiscal year 2018, organization 0947, in the amount of \$2,266,000 and to the Department of Transportation, State Rail Authority, West Virginia Commuter Rail Access Fund, fund ****, fiscal year 2018, organization 0804 in the amount of \$1,500,00; from the Auditor's Office – Securities Regulation Fund, fund 1225, fiscal year 2018, organization 1200, and from the Treasurer's Office, Banking Services Expense Fund, fund 1322, fiscal year 2018, organization 1300, by supplementing and amending chapter one, Acts of the Legislature, 1st extraordinary session, 2017, known as the budget bill.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4389) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4392, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4392) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4394, Relating to forest fires.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4394) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4394—A Bill to amend and reenact §20-3-5 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §20-3-5a, all relating to forest fires; requiring all flammable material must be removed from the area immediately surrounding material to be burned for a distance which ensures the fire will at all times be contained; requiring that a safety strip shall in no event be less than ten feet wide; establishing a crime for any person or employee who sets or causes to be set any fire which escapes the safety strip and causes damage to the lands of another; setting forth criminal penalties; creating a prescribed fire program; defining terms; requiring Director of the Division of Natural Resources to develop a certification process and prescribed burn course; setting forth requirements for certification as a certified prescribed fire manager; prescribing manner in which prescribed burn must be performed; setting forth violations which may result in revocation of certification; and authorizing rule-making.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4424, Providing that the Ethics Act applies to certain persons providing services without pay to state elected officials.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4424) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4424—A Bill to amend and reenact §6B-1-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §6B-2-5 of said code, all relating to providing that the West Virginia Governmental Ethics Act applies to public servant volunteers; defining terms; and providing that the requirements of the West Virginia Governmental Ethics Act apply to a person who is granted or vested with powers, privileges or authorities ordinarily reserved to public officials or who performs services, without compensation, on behalf of a public official.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4428, Allowing training hours earned through public school education or apprenticeship to count towards an applicant's occupational certification.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4428) passed.

On motion of Senator Karnes, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4428—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15g; to amend said code by adding thereto a new article, designated §18-33-1, §18-33-2, and §18-33-3; to amend said code by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4, and §21-1E-5; and to amend said code by adding thereto a new article designated §30-1E-1, §30-1E-2, §30-1E-3, and §30-1E-4, all relating to addressing workforce needs; requiring county boards of education to permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools under certain conditions; defining and setting forth purpose of Governor's Workforce Credential; setting forth requirements for qualifying for Credential; requiring that any student fulfilling the requirements of the Credential and meeting graduation requirements receive individual recognition at their high school graduation ceremony; requiring standards and procedures for applying career technical training acquired in public schools, apprenticeships and training programs toward occupational testing, certification and/or licensure; establishing purpose; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor and by licensing boards and commissions; requiring certain career and education related information be provided to high school students; and requiring Commissioner of Labor rule to include guidelines for collection and dissemination of information in manner easily accessible to both students and their parents.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4431, Establishing the Mountaineer Trail Network Recreation Authority.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Clements and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4431) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4431—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, §20-14A-11, §20-14A-12, and §20-14A-13, all relating generally to establishing the Mountaineer Trail Network Recreation Authority; providing a statement of legislative purpose and findings; defining terms; creating the Mountaineer Trail Network Recreation Authority, which is a public corporation and joint development entity of certain participating counties; providing for appointment of individuals to the board of the authority and the filling of vacancies in the board; prescribing the terms of appointment; requiring quarterly meetings of the board; describing how quorum is established; authorizing the board to promulgate bylaws and rules; providing that the authority is subject to freedom of information act laws; describing the powers and duties of the authority, acting through its board; requiring the board to appoint an executive director; describing powers and duties of

the executive director; authorizing employment of staff; requiring creation of an annual budget; providing for payment of authority expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of funds received from the Legislature; establishing prohibited actions by users of recreation area land and providing criminal penalties; limiting the liability of landowners of land used by the Authority; setting forth purchasing and bidding procedures for contracts and purchases by the Authority; providing criminal penalties for violation of purchasing and bidding requirements; prohibiting certain purchasing contracts with vendors that create conflicts of interest; providing criminal penalties for entering into prohibited purchasing contracts creating conflicts of interest; providing civil remedies for participating counties challenging purchasing contracts violating purchasing or bidding requirements or conflict of interest prohibitions; providing a process for four or more contiguous counties in the state to form a separate and distinct regional Mountaineer Trail Network Recreation Authority; providing that a regional Mountaineer Trail Network Recreation Authority must operate in compliance with all requirements applying to the Mountaineer Trail Network Recreation Authority; providing that any other provisions in the new article relating to requirements, limitations and privileges of a user, the board, participating landowners, or participating counties of the Mountaineer Trail Network Recreation Authority shall apply to a user, the board, a participating landowner, or a participating county of a regional Mountaineer Trail Network Recreation Authority with respect to the separate and distinct regional authority area; and providing for severability.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4447, Providing for a uniform and efficient system of broadband conduit installation.

On third reading, coming up in regular order, was read a third time.

Senator Ferns requested unanimous consent that further consideration of the bill be deferred until the conclusion of bills on today's third reading calendar, following consideration of Engrossed Committee Substitute for House Bill 4217, already placed in that position.

Which consent was not granted, Senator Plymale objecting.

The question now being on the passage of Engrossed Committee Substitute for House Bill 4447.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4447 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4447) passed.

On motion of Senator Gaunch, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4447—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6, §17-2E-7, and §17-2E-8, all relating to providing a uniform and efficient system of broadband conduit installation coinciding with the construction, maintenance, or improvement of highways and rights-of-way under the oversight of the Division of

Highways; making legislative findings; defining terms; providing procedures for broadband conduit installation in rights-of-way; providing for highway safety guidelines; establishing a procedure for joint use between telecommunications carriers; setting forth a procedure for monetary and in-kind compensation; setting forth standards to be utilized in agreements entered into by the Division of Highways and two or more telecommunications carriers in a single trench; and providing that existing rules, policies, and procedures of the Division of Highways and United States Code shall control.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4465, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Gaunch, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 4486, Relating to persons required to obtain a license to engage in the business of currency exchange.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Beach and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4486) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 4488, Relating to the Hatfield-McCoy Recreation Authority.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

On page four, section three, line twenty-one, by striking out the word “may” and inserting in lieu thereof the word “shall”.

There being no further amendments offered,

Having been engrossed, the bill (Eng. H. B. 4488), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 4488 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Maroney, Maynard, Ojeda, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Plymale—1.

Absent: Karnes and Mann—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4488) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4524, Establishing guidelines for the substitution of certain biological pharmaceuticals.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4524 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4524) passed.

The following amendment to the title of the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4524—A Bill to amend the Code of West Virginia, 1931, as amended, by enacting a new section designated as § 30-5-12c relating to establishing guidelines for the substitution of certain biological pharmaceuticals by pharmacists; defining terms; providing for guidelines relating to

substitution of interchangeable biological products; establishing communication requirements between the pharmacists and prescriber relating to substitution of interchangeable biological products; requiring maintenance of records relating to biological products dispensed for at least two years; providing for emergency rules; establishing manufacturing standards; clarifying process for complaints; and providing for immunity for certain actions.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. Com. Sub. for House Bill 4558, Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4558) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. Com. Sub. for House Bill 4603, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4603) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4603—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §55-7K-1 and §55-7K-2, relating to providing immunity from civil liability to certain facilities, including their directors, officers, employees, and agents, providing crisis stabilization and/or drug and alcohol detoxification services, substance use disorder services, and/or drug overdose services on a short-term basis; providing an effective date; and providing that the provisions of this article are to operate in addition to, and not in derogation of, any of the provisions contained in the Medical Professional Liability Act.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Eng. House Bill 4628, Relating to authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to January 1, 2019.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Sypolt—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4628) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Eng. House Bill 4629, Relating to broadband enhancement and expansion policies generally.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4629) passed.

The following amendment to the title of the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

Eng. House Bill 4629—A Bill to repeal §31G-1-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §31G-2-1 of said code; and to amend said code by adding thereto a new section, designated §31G-4-4, all relating to broadband enhancement and expansion policies generally; repealing language relating to pilot project for cooperative associations by political subdivisions; providing that a political subdivision of this state may be a qualified person for the purposes of forming a cooperative association; and establishing Public Service Commission jurisdiction over make-ready pole access within the state.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4629) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The end of today's third reading calendar having been reached, the Senate returned to the consideration of

Eng. Com. Sub. for House Bill 4006, Revising the processes through which professional development is delivered for those who provide public education.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

The question being “Shall Engrossed Committee Substitute for House Bill 4006 pass?”

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4006 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Cline, Ferns, Karnes, Maroney, Maynard, Rucker, Smith, Sypolt, Takubo, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Drennan, Facemire, Gaunch, Jeffries, Ojeda, Palumbo, Plymale, Prezioso, Romano, Stollings, Swope, Unger, and Woelfel—15.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4006) passed.

On motion of Senator Karnes, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for House Bill 4006—A Bill to repeal §10-5-2a of the Code of West Virginia, 1931, as amended; to repeal §18-2I-3 of said code; to repeal §18A-3-2d of said code; to repeal §18A-3A-1, §18A-3A-2, §18A-3A-2b, §18A-3A-3 and §18A-3A-5 of said code; to repeal §18B-11-4 and §18B-11-6 of said code; to amend and reenact §4-13-2 of said code; to amend and reenact §5-26A-3 of said code; to amend and reenact §5B-2C-6 of said code; to amend and reenact §5F-1-2 of said code; to amend said code by adding thereto a new section, designated §5F-1-5; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend and reenact §18-2I-1, §18-2I-2 and §18-2I-4 of said code; to amend and reenact §18-10A-1, §18-10A-2, §18-10A-3,

§18-10A-6a and §18-10A-12 of said code; to amend and reenact §18-30-4 of said code; to amend and reenact §18A-2-9 and §18A-2-12 of said code; to amend and reenact §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of said code; to amend and reenact §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code; to amend and reenact §18B-1B-2 of said code; to amend and reenact §18B-3D-2 of said code; to amend and reenact §18B-16-5 and §18B-16-8 of said code; to amend and reenact §18B-18B-1 of said code; and to amend and reenact §29-24-3 and §29-24-5 of said code, all relating to revising the processes through which professional development is delivered for those who provide public education in this state, including improvement of the focus on school-level continuous improvement processes led by the principal, generally; eliminating administrative offices, duplicative programs and obsolete provisions; repealing provisions related to creation and duties of distance learning coordinating council; repealing provisions related to annual state board professional development master plan; repealing provisions related to beginning principal internships; repealing provisions related to center for professional development and principals academy curriculum; repealing provisions related to center for development professional development project; repealing provisions related to principals academy establishment, mission, required attendance and employment of coordinator; repealing provisions related to pilot program of delivering educational services via distance learning; repealing provisions related to creation of depositories for assistive devices and services at two colleges or universities; repealing provisions creating the National Institute For Teaching Excellence and its governing board; modifying membership of Sesquicentennial of the American Civil War Commission; modifying membership of Commission for National and Community Service; removing Department of Education and the Arts as option to provide technical support to the Academy of Science and Technology in preparation of annual report; eliminating Department of Education and the Arts as executive department headed by secretary; establishing internal effective date; transferring Division of Culture and History and Division of Rehabilitation Services to Department of Commerce; making the Educational Broadcasting Authority and Library Commission each an independent agency within executive

branch; correcting names of agencies; eliminating salary of Secretary of Education and the Arts; modifying the scope and goals of the system for coordination and delivery of professional development to be instituted by State Board of Education; modifying legislative findings with respect to professional development; eliminating requirement for State Board of Education master plan for professional development; requiring State Board of Education rule to include process for aggregating school and system strategic plan information to assist design and delivery of professional development; transferring the Center for Professional Development to be under the authority and control of the State Board of Education; replacing references to the secretary and the Department of Education and the Arts in rehabilitation and vocational services related statutes; modifying membership of College Prepaid Tuition and Savings Program Board; including instructional leadership among the responsibilities of principals and requiring course work in instructional leadership and related topics as prerequisite for administrative certification; moving from a precertification requirement to a pre-employment requirement that principals, assistant principals and administrators complete education and training in evaluation skills; deleting provisions proscribing limitations on certain rights and privileges of principals and assistant principals as teachers; removing requirements for interaction between State Board Of Education and Center for Professional Development regarding performance evaluations; removing proscription of issuance or renewal of certain administrative certificate; removing requirement for State Board Of Education consultation with Secretary of Education and Arts and Chancellor for Higher Education prior to exercise of authority over education; adding within standards for education of professional educators requirement providing for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America; eliminating references to regional education service agencies; removing requirement for State Board of Education to consult with Secretary of Education and the Arts and the Chancellor of Higher Education; removing provisions related to required training and professional development of principals through principals academy; adding instructional leadership and management

techniques to required minimum standards for rule governing training of principals; removing language relating to waivers, ineligibility, progress tracking and expenses relating to training of principals; requiring county professional staff development councils to base proposals for staff development on analysis of individual and collective need indicated in school's strategic plans; incorporating development of certain teachers, principals, assistant principals, vocational administrators and others in the provisions for a comprehensive system to improve teaching and learning; making legislative finding that professional development resources must be focused rather than increased; removing obsolete provisions related to phased implementation of provisions for professional personnel evaluations; eliminating requirement for five percent of evaluations to be based on state summative assessment and increasing percent based on evidence of student learning by five percent; incorporating principals into the comprehensive system of support for improved professional performance; requiring deficiencies identified through personnel evaluations to be incorporated in strategic plans for continuous improvement; removing language requiring posting and other provisions relating to employment; restricting certain appropriations for certain activities; modifying membership and selection process for members of Higher Education Policy Commission; modifying membership of Workforce Development Initiative Program Advisory Committee; updating agency references and removing Secretary of Education and the Arts with respect to rural health initiative; modifying membership of Science and Research Council; transferring certain references and responsibilities to Technology-Related Assistance Revolving Loan Fund For Individuals With Disabilities Board to Secretary of Commerce; directing the adoption and promulgation of rules and guidelines; and making consequential changes incident to the elimination of agencies or programs or the modification of duties, responsibilities and functions.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

Action as to Engrossed Committee Substitute for House Bill 4006 having been concluded, the Senate proceeded to the consideration of

Eng. Com. Sub. for House Bill 4217, Permitting an attending physician to obtain a patient's autopsy report.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

At the request of Senator Takubo, unanimous consent was granted to offer amendments to the bill on third reading.

Thereupon, on motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page two, section ten, line thirty, by striking out “§49-5D-3” and inserting in lieu thereof “§49-4-402”;

And,

On page two, section ten, line forty-two, by striking out the words “is empowered to” and inserting in lieu thereof the word “may”.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4217), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4217) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 4607, Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk, considered simultaneously, and adopted:

On page four, section two, line eighty-eight, by striking out the word “drones” and inserting in lieu thereof the words “an unmanned aircraft system”;

On page four, section two, line eighty-nine, by striking out the word “drone” and inserting in lieu thereof the words “unmanned aircraft system”;

On page four, section two, line ninety-one, by striking out the word “drone” and inserting in lieu thereof the words “unmanned aircraft system”;

On page four, section two, line ninety-four, by striking out the word “drone” and inserting in lieu thereof the words “unmanned aircraft system”;

And,

On page four, section two, line ninety-five, by striking out the word “drones” and inserting in lieu thereof the words “an unmanned aircraft system”.

The bill (Eng. Com. Sub. for H. B. 4607), as amended, was then ordered to third reading.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

Eng. Com. Sub. for Senate Bill 582, Allowing candidate for political party executive committee serve as election official.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Lane, Capito, and Miller.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Clements, Maroney, and Baldwin.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee report had been filed at 4:54 p.m. today:

Eng. Com. Sub. for Senate Bill 46, Permitting pharmacists to inform customers of lower-cost alternative drugs.

The Clerk announced the following conference committee report had been filed at 4:55 p.m. today:

Eng. Com. Sub. for House Bill 4186, Relating generally to guaranteed asset protection waivers.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 242, Requiring health insurance providers provide coverage for certain Lyme disease treatment.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 261, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 11. TAXATION

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-4c. Collection of fee in addition to the consumers sales tax for sales of mobile factory-built homes; deposit of additional fee in West Virginia Affordable Housing Trust Fund.

(a) There is imposed, in addition to the sales tax imposed by the provisions of this article and §11-15A-1 et seq. of this code, a fee of \$20 on all sales by licensed dealers of factory-built homes as that term is defined in §37-15-2 of this code to be collected as provided in §11-15B -1 et seq. of this code and remitted to the Tax Commissioner to be deposited by the commissioner in the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund, as provided in ~~§31-18D-1 et seq.~~ §31-18-20d of this code.

(b) The moneys collected from this additional fee shall be segregated from other funds ~~in the West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund.

ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax.

(a) Every person who delivers, accepts or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code. The state tax is payable at the time of delivery, acceptance or presenting for recording of the document. In addition to the state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund as provided in §31-

~~18D-1 et seq. §31-18-20d~~ of this code. The moneys collected from this additional fee shall be segregated from other funds ~~in the West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the West Virginia Affordable Housing Trust Fund Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the West Virginia Affordable Housing Trust Fund Housing Development Fund. The West Virginia Housing Development Fund as fiscal agent of the ~~West Virginia Affordable Housing Trust Fund~~ shall publish monthly on the Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including the group receiving funds, their location and any contractor awarded the construction contract. ~~Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual report to the Joint Committee on Government and Finance before December 1, 2007, and each year thereafter~~

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or fraction thereof as represented by such document as defined in ~~section one of this article §11-22-1 of this code~~, which county tax shall be payable at the time of delivery, acceptance or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document as defined in ~~section one of this article §11-22-1 of this code~~: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the

grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than thirty days nor more than sixty days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

CHAPTER 31. CORPORATIONS.

ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

§31-18-3. Definitions.

As used in this article, unless the context otherwise requires:

(1) “Affordable Housing Fund” means the affordable housing fund created and established by the Housing Development Fund in accordance with §31-18-20d of this code.

~~(1)~~ (2) “Annual sinking fund payment” means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond.

~~(2)~~ (3) “Development costs” means the costs approved by the Housing Development Fund as appropriate expenditures by the Housing Development Fund or by sponsors, for land development, residential housing, or nonresidential projects within this state, including, but not limited to:

(a) Payments for options to purchase proposed sites, necessary easements and other related property rights, deposits on contracts of purchase, or, with prior approval of the Housing Development Fund, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorneys' fees, utility and governmental application and filing fees and expenses, project manager and clerical staff salaries, office rent and other incidental expenses;

(c) Payment of fees and expenses for preliminary feasibility studies and costs estimates and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses; and

(e) Necessary application, approval and other fees.

~~(3)~~ (4) "Eligible persons and families" means:

(a) Persons and families of low and moderate income; or

(b) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent and safe residential housing available at prices or rentals which persons and families of low and moderate income can afford; or

(c) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated multifamily rental housing or new, rehabilitated or existing home ownership housing in the state for occupancy by them will further economic growth, increase the housing stock in the state by eliminating substandard or deteriorating housing conditions, or provide additional housing opportunities in the state; or

(d) Persons who because of age or physical disability are found and determined by the Housing Development Fund, by resolution,

to require residential housing of a special location or design in order to provide them with sanitary, decent and safe residential housing; or

(e) Persons and families for whom, as found and determined by the Housing Development Fund by resolution, construction of new or rehabilitated residential housing in some designated area or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas qualified manpower resources essential to modern mining, industrial and commercial operations and development in such area or areas.

~~(4)~~ (5) “Federally insured construction loan” means a construction loan for land development, residential housing or nonresidential projects, which are either secured or guaranteed, in whole or in part, by a federally insured mortgage or a federal mortgage, or which are insured or guaranteed, in whole or in part, by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such loan.

~~(5)~~ (6) “Federally insured mortgage” means a mortgage loan for land development, residential housing or nonresidential projects with a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage.

~~(6)~~ (7) “Federal mortgage” means a mortgage loan for land development, residential housing or nonresidential projects made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan.

~~(7)~~ (8) “Housing development fund” means the West Virginia Housing Development Fund heretofore created and established by §31-18-4 of this code.

~~(8)~~ (9) “Land development” means the process of acquiring land for residential housing construction or nonresidential projects or of making, installing or constructing improvements, including waterlines and water supply installations, sewer lines and sewage

disposal installations, steam, gas, telephone and telecommunications and electric lines and installations, roads, railroad spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage and flood control facilities, whether on or off the site, which the Housing Development Fund deems necessary or desirable to prepare such land for construction within this state.

~~(9)~~ (10) “Land development fund” means the land development fund which may be created and established by the Housing Development Fund in accordance with §31-18-20a of this code.

~~(10)~~ (11) “Minimum bond insurance requirement” means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the Housing Development Fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of: (a) All interest payable during such calendar year on such mortgage finance bonds on said date of computation; plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds; plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation.

~~(11)~~ (12) “Mortgage finance bonds” means bonds issued or to be issued by the Housing Development Fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in §31-18-20b of this code.

~~(12)~~ (13) “Mortgage finance bond insurance fund” means the special trust fund created and established in the State Treasury in accordance with §31-18-20b of this code.

~~(13)~~ (14) “Nonresidential project” means a project in the state, whether or not directly related to the providing of residential housing, determined by the Housing Development Fund as likely to foster and enhance economic growth and development in the area of the state in which such project is developed, for retail, commercial, industrial, community improvement or preservation or other proper purpose, including tourism and recreational housing, land, air or water transportation facilities, facilities for vocational or other training or to provide medical care and other special needs of persons residing in the state, sports complexes and cultural, artistic and other exhibition centers, industrial or commercial projects and facilities, mail order, wholesale and retail sales facilities and other real or personal properties including facilities which are owned or leased by this state, any county or municipality or other public body within the state, and includes, without limitation, the process of acquiring, holding, operating, planning, financing, demolition, construction, renovation, leasing or otherwise disposing of such project or any part thereof or interest therein. Any such project may include appurtenant machinery and equipment.

~~(14)~~ (15) “Operating loan fund” means the operating loan fund which may be created and established by the Housing Development Fund in accordance with §31-18-19 of this code.

~~(15)~~ (16) “Persons and families of low and moderate income” means persons and families, irrespective of race, creed, national origin or sex, determined by the Housing Development Fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford sanitary, decent and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the

fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs; (b) the size of the family; (c) the cost and condition of housing facilities available; (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis; and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing: *Provided*, That to the extent found and determined by the Housing Development Fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low or moderate income basis.

~~(16)~~ (17) “Residential housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing for occupancy by eligible persons and families, including, but not limited to, facilities for temporary housing and emergency housing, nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(17)~~ (18) “Special bond insurance commitment fee” means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the Housing Development Fund from the proceeds of mortgage finance bonds, other than a

federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the Housing Development Fund for such use: *Provided*, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee.

~~(18)~~ (19) “Special bond insurance premium” means: (i) A fee at the rate of one half of one percent per annum on the outstanding principal balance which the Housing Development Fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each successive month that installment payments of principal of such a loan are payable; and (ii) with respect to any loan, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, purchased, or invested in with such proceeds, an equivalent amount which the Housing Development Fund shall set aside from payments it receives on such loan or from any other source available to the Housing Development Fund for such use.

~~(19)~~ (20) “State sinking fund commission” means the commission known as such and continued in existence pursuant to §13-3-1 *et seq.* of this code and any body, board, person or commission which shall, by law, hereafter succeed to the powers and duties of such commission.

~~(20)~~ (21) “Temporary housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction

or rehabilitation of land, buildings and improvements thereto, for temporary residential housing, including, but not limited to, shelters for homeless people, housing for victims of floods and other disasters, shelters for abused or battered persons and their children, housing for families with hospitalized family members, housing for students and student families, and housing for the handicapped and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(21)~~ (22) “Uninsured construction loans” means a construction loan for land development, residential housing or nonresidential projects which is not secured by either a federally insured mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

~~(22)~~ (23) “Uninsured mortgage” and “uninsured mortgage loan” means mortgage loans for land development, residential housing or nonresidential projects which are not insured or guaranteed by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

§31-18-6. Corporate powers.

The Housing Development Fund is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose, including, but not limited to, the following:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make temporary loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized and operated in accordance with the provisions of §31-18-19 of this code, to defray development costs to sponsors of land development, residential housing or nonresidential projects which are eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages or uninsured construction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To establish residential housing and nonresidential and land development projects for counties declared to be in a disaster area by the Federal Emergency Management Agency or other agency or instrumentality of the United States or this state;

(5) To accept appropriations, gifts, grants, bequests and devises and to utilize or dispose of the same to carry out its corporate purpose;

(6) To make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(7) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative and project assistance services;

(8) To invest any funds not required for immediate disbursement in any of the following securities:

(i) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest on which the full faith and credit of the United States of America is pledged;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for cooperatives; federal intermediate credit banks; federal home loan bank system; export-import bank of the United States; federal land banks; Tennessee valley authority; United States postal service; inter-American development bank; international bank for reconstruction and development; small business administration; Washington metropolitan area transit authority; general services administration; federal financing bank; federal home loan mortgage corporation; student loan marketing association; farmer's home administration; the federal national mortgage association or the government national mortgage association; or any bond, debenture, note, participation certificate or other similar obligation to the extent such obligations are guaranteed by the government national mortgage association or federal national mortgage association or are issued by any other federal agency and backed by the full faith and credit of the United States of America;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the federal deposit insurance corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the federal savings and loan insurance corporation, or its

successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve bank: *Provided*, That such investments shall only be made to the extent insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the Housing Development Fund pursuant to this section;

(v) Direct obligations of or obligations guaranteed by the State of West Virginia;

(vi) Direct and general obligations of any other state, municipality or other political subdivision within the territorial United States: *Provided*, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond-rating agency;

(vii) Any bond, note, debenture or annuity issued by any corporation organized and operating within the United States: *Provided*, That such corporation shall have a minimum net worth of \$15 million and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: *Provided, however*, That: (1) Such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements; and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years; and (3) the bonds, notes or debentures of such corporation to be purchased are rated "AA" or the equivalent thereof or better than "AA" or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor's, Dunn & Bradstreet, Best's or Moody's;

(viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity or other market risks in relation to obligations issued or to be issued or owned or to be owned by the Housing Development Fund, options, futures contracts (including index futures but exclusive of commodities futures, options or other contracts), standby purchase agreements or similar

hedging arrangements listed by a nationally recognized securities exchange or a corporation described in paragraph (vii) ~~above~~;

(ix) Certificates, shares or other interests in mutual funds, unit trusts or other entities registered under section eight of the United States Investment Company Act of 1940, but only to the extent that the terms on which the underlying investments are to be made prevent any more than a minor portion of the pool which is being invested in to consist of obligations other than investments permitted pursuant to this section; and

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia State Board of Investments or any other obligation authorized as an investment for the West Virginia State Board of Investments under §12-6-1 *et seq.* of this code or for a public housing authority under §16-15-1 *et seq.* of this code;

(9) To sue and be sued;

(10) To have a seal and alter the same at will;

(11) To make, and from time to time, amend and repeal bylaws and rules and regulations not inconsistent with the provisions of this article;

(12) To appoint such officers, employees and consultants as it deems advisable and to fix their compensation and prescribe their duties;

(13) To acquire, hold and dispose of real and personal property for its corporate purposes;

(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

(15) To acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the Housing Development Fund has an interest and to sell, transfer and convey

any such property to a buyer and, in the event of such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(16) To purchase or sell, at public or private sale, any mortgage or other negotiable instrument or obligation securing a construction, rehabilitation, improvement, land development, mortgage or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which the Housing Development Fund is a party;

(19) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

(20) To borrow money to carry out and effectuate its corporate purpose and to issue its bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that no notes shall be issued to mature more than ten years from date of issuance and no bonds shall be issued to mature more than fifty years from date of issuance;

(21) To issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than ten years from date of issuance of the notes

renewed and no such refunding bonds shall be issued to mature more than fifty years from the date of issuance;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption or payment of the notes or bonds to be refunded;

(23) To make grants and provide technical services to assist in the purchase or other acquisition, planning, processing, design, construction, or rehabilitation, improvement or operation of residential housing, nonresidential projects or land development: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining or increasing employment or the tax base;

(24) To provide project assistance services for residential housing, nonresidential projects and land development, including, but not limited to, management, training and social and other services;

(25) To promote research and development in scientific methods of constructing low cost land development, residential housing or nonresidential projects of high durability including grants, loans or equity contributions for research and development purposes: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining and increasing employment and the tax base;

(26) With the proceeds from the issuance of notes or bonds of the Housing Development Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the Housing Development Fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the Housing Development Fund and take such collateral security therefor as is

approved by the Housing Development Fund and to invest in, purchase, acquire, sell or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, improvement, purchase or refinancing of land development, residential housing or nonresidential projects in this state: *Provided*, That the Housing Development Fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans, uninsured mortgage loans or uninsured construction loans, for land development, residential housing or nonresidential projects or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(27) To make or participate in the making of uninsured construction loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(28) To make or participate in the making of long-term uninsured mortgage loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(29) To obtain options to acquire real property, or any interest therein, in its own name, by purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable, or potentially suitable, as a site, or as part of a site, for land development or the construction of residential housing or nonresidential projects; to hold such real property or to acquire by purchase or otherwise and to transfer by sale or otherwise any ownership or equity interests in any other legal entity which holds such real property; to finance the performance of land development, residential housing or nonresidential projects on or

in connection with any such real property or to perform land development, residential housing or nonresidential projects on or in connection with any such real property; to own, operate and sponsor or participate in the sponsorship of land development, residential housing or nonresidential projects; or to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon such terms, conditions and limitations, and at such time or times as the Housing Development Fund shall determine;

(30) To make loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable from the land development fund, if created, established, organized and operated in accordance with the provisions of §31-18-20a of this code, to sponsors of land development, to defray development costs and other costs of land development;

(31) To exercise all of the rights, powers and authorities of a public housing authority as set forth and provided in §16-15-1 *et seq.* of this code, in any area or areas of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(32) To provide assistance to urban renewal projects in accordance with the provisions of §16-18-28 of this code and in so doing to exercise all of the rights, powers and authorities granted in this article or in said article, in and for any communities of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(33) To make or participate in the making of loans for the purpose of rehabilitating or improving existing residential and temporary housing or nonresidential projects, or to owners of existing residential or temporary housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential or temporary housing or nonresidential projects and, in connection therewith, to refinance existing loans involving the same property. Such loans shall be made only upon determination by the Housing Development Fund that

rehabilitation or improvement loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(34) Whenever the Housing Development Fund deems it necessary in order to exercise any of its powers set forth in subdivision (29) of this section, and upon being unable to agree with the owner or owners of real property or interest therein sought to be acquired by the fund upon a price for acquisition of private property not being used or operated by the owner in the production of agricultural products, to exercise the powers of eminent domain in the acquisition of such real property or interest therein in the manner provided under §54-1-1 *et seq.* of this code, and the purposes set forth in said subdivision are hereby declared to be public purposes for which private property may be taken. For the purposes of this section, the determination of “use or operation by the owner in the production of agricultural products” means that the principal use of such real estate is for the production of food and fiber by agricultural production other than forestry, and the fund shall not initiate or exercise any powers of eminent domain without first receiving an opinion in writing from both the Governor and the commissioner of agriculture of this state that at the time the fund had first attempted to acquire such real estate or interest therein, such real estate or interest therein was not in fact being used or operated by the owner in the production of agricultural products;

(35) To acquire, by purchase or otherwise, and to hold, transfer, sell, assign, pool or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities or debt instruments collateralized by mortgages or interests in mortgages or other instruments evidencing loans or equity interests in or for the construction, rehabilitation, improvement, renovation, purchase or refinancing of land development, residential housing and nonresidential projects in this state; ~~and~~

(36) To form one or more nonprofit corporations, whose board of directors shall be the same as the board of directors of the Housing Development Fund, which shall be authorized and empowered to carry out any or all of the corporate powers or

purposes of the Housing Development Fund, including, without limitation, acquiring limited or general partnership interests and other forms of equity ownership;

(37) To receive and compile data into an electronic database and make available the raw mortgage foreclosure data that is required to be reported to county clerks by trustees pursuant to the provisions of §38-1-8a of this code, including all data that has been received by the banking commissioner pursuant to §31A-2-4c(a) of this code, as of the effective date ~~of the effective date~~ of the amendments made to said section during the regular session of the 2010 Legislature. This information shall be periodically forwarded by county clerks to the Housing Development Fund, in accordance with the provisions of §44-13-4a of this code; and

(38) Provide funding to increase the capacity of nonprofit community housing organizations to serve their communities.

§31-18-20d. Affordable Housing Fund.

(a) There is hereby created and established a special fund to be designated as the "Affordable Housing Fund" into which the Housing Development Fund shall deposit the funds received pursuant to §11-15-4c and §11-22-2 of this code. Such funds shall be governed, administered and accounted for by the Housing Development Fund as a special purpose account separate and distinct from any other moneys, fund or funds owned or managed by the Housing Development Fund. Additionally, the Housing Development Fund shall deposit an additional amount at least equal to the funds received pursuant to §31-18-29 of this code. The moneys deposited in such fund may be invested and reinvested by the Housing Development Fund as authorized under §31-18-6(8) of this code.

(b) The Housing Development Fund shall use the moneys from the Affordable Housing Fund to make, or participate in the making of, loans or grants for eligible activities that shall include, but not be limited to:

(1) Providing funds for new construction, rehabilitation, repair or acquisition of housing to assist low or moderate income citizens including land and land improvements;

(2) Providing matching funds for federal housing moneys requiring a local or state match;

(3) Providing funds for administrative costs for housing assistance programs or nonprofit organizations eligible for funding pursuant to subsection(c) of this section if the grants or loans provided will substantially increase the recipient's access to housing funds or increase its capacity to supply affordable housing;

(4) Providing loan guarantees and other financial mechanisms to facilitate the provision of housing products or services;

(5) Providing funds for down payments, closing costs, foreclosure prevention, home ownership counseling and security bonds which facilitate the construction, rehabilitation, repair or acquisition of housing by low to moderate income citizens;

(6) Providing risk underwriting products not provided by private sector entities to facilitate broader accessibility of citizens to other federal or state housing funds or loan programs. The products shall be established using professional risk underwriting standards and separate corporate vehicles may be created and capitalized by the Housing Development Fund to provide the products; and

(7) Providing start-up funds for initial operational expenses of local government programs to reduce substandard housing or inappropriate land use patterns.

(c) Organizations eligible for funding from the Affordable Housing Fund include: (1) Local governments; (2) local government housing authorities; (3) nonprofit organizations recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, codified in 26 U.S.C. § 501(c)(3), and which are organized and operated exclusively for charitable purposes within the meaning of that section, and in accordance with those purposes provide assistance to low or moderate income citizens of this state; and (4) regional or statewide housing assistance organizations that have been recognized as exempt under Section 501(c)(3) of the Internal

Revenue Code, as amended, and which provide assistance to low and moderate income or low income citizens of this state.

§31-18-22. Termination or dissolution.

Upon the termination or dissolution, all rights and properties of the Housing Development Fund, including the Operating Loan Fund, the Land Development Fund, ~~and~~ the Mortgage Finance Bond Insurance Fund, and the Affordable Housing Fund, shall pass to and be vested in the State of West Virginia, subject to the rights of bondholders, lienholders and other creditors.

§31-18-24. Annual audit; reports to Joint Committee on Government and Finance; information to joint committee or legislative Auditor.

The Housing Development Fund shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Speaker of the House of Delegates, the President of the Senate and the majority and minority leaders of both houses.

In addition to the foregoing annual audit report, the Housing Development Fund shall also render every six months to the Joint Committee on Government and Finance a report setting forth in detail a complete analysis of the activities, indebtedness, receipts and financial affairs of such fund and the operating loan fund, the land development fund, affordable housing fund and the mortgage finance bond insurance fund. Upon demand, the Housing Development Fund shall also submit to the Joint Committee on Government and Finance or the Legislative Auditor any other information requested by such committee or the Legislative Auditor.

§31-18-29. Dissolution of West Virginia Affordable Housing Trust Fund.

Upon termination of the West Virginia Affordable Housing Trust Fund, the Housing Development Fund shall provide for the payment of all debts, obligations, or expenses of the Affordable Housing Trust Fund, and all assets remaining in the Affordable Housing Trust Fund shall be transferred to the West Virginia Housing Development Fund.

ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.

§31-18D-1. Short title.

[Repealed.]

§31-18D-2. Legislative finding and purpose.

[Repealed.]

§31-18D-3. Definitions.

[Repealed.]

§31-18D-4. Affordable housing trust fund.

[Repealed.]

§31-18D-5. Housing Trust Fund Board of Directors.

[Repealed.]

§31-18D-6. Powers and responsibilities of the board.

[Repealed.]

§31-18D-7. Eligible activities; eligible organizations.

[Repealed.]

§31-18D-8. Corporate powers.

[Repealed.]

§31-18D-9. Applications and selection criteria.

[Repealed.]

§31-18D-10. Documentary materials concerning financial or personal information; confidentiality.

[Repealed.]

§31-18D-11. Conflicts.

[Repealed.]

§31-18D-12. Tax exemption.

[Repealed.]

§31-18D-13. Annual report.

[Repealed.]

§31-18D-14. Exemption from certain requirements; audit

[Repealed.]

§31-18D-15. Dissolution or liquidation of trust fund.

[Repealed.];

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 261—A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, §31-18D-14 and §31-18D-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6, §31-18-22 and §31-18-24 of said code; and to amend said code by adding thereto a new section, designated §31-18-20d, all relating generally to the

elimination of the West Virginia Affordable Housing Trust Fund; transferring current responsibilities and duties of the West Virginia Housing Trust Fund to the West Virginia Housing Development Fund; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fee on all sales by licensed dealers of factory-built homes to be deposited in Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fee upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; defining “Affordable Housing Fund”; authorizing West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in Affordable Housing Fund; requiring certain reporting; providing for disposition of Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund; and providing for windup of West Virginia Affordable Housing Trust Fund.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 261) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 261—A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, §31-18D-14 and §31-18D-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6, §31-18-22 and §31-18-24 of said code; and to amend said code by adding thereto two new sections, designated §31-18-20d and §31-18-29, all relating generally to the elimination of the West Virginia Affordable Housing Trust Fund; transferring current responsibilities and duties of West Virginia Housing Trust Fund to the West Virginia Housing Development Fund; eliminating the

West Virginia Affordable Housing Trust Fund and the West Virginia Affordable Housing Trust Fund Board of Directors; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fees on all sales by licensed dealers of factory-built homes to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fees upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; prohibiting use of funds in Affordable Housing Fund from being used to defray administrative and operating costs and expenses of Housing Development Fund; defining “Affordable Housing Fund”; authorizing the West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in the Affordable Housing Fund; providing for disposition of the Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund; providing for windup of West Virginia Affordable Housing Trust Fund; repealing code related to West Virginia Affordable Housing Trust Fund; eliminating obsolete language; and making technical corrections.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 261, as amended, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 261 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Blair, Boley, Boso, Clements, Drennan, Facemire, Ferns, Gaunch, Karnes, Maroney, Romano, Rucker, Swope, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Cline, Jeffries, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Sypolt, Unger, and Woelfel—14.

Absent: Mann and Takubo—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 261) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 273, Reducing use of certain prescription drugs.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page twenty-one, section one, line nine, by striking out “§30-3E-1 *et seq.*” and inserting in lieu thereof “§30-3E-3”;

On pages twenty-two through twenty-four, by striking out all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

§16-54-4. Opioid prescription limitations.

(a) When issuing a prescription for an opioid to an adult patient seeking treatment in an emergency room for outpatient use, a health care practitioner may not issue a prescription for more than a four-day supply.

(b) When issuing a prescription for an opioid to an adult patient seeking treatment in an urgent care facility setting for outpatient use, a health care practitioner may not issue a prescription for more than a four day supply: *Provided*, That an additional dosing for up to no more than a seven day supply may be permitted, but only, if the medical rationale for more than a four day supply is documented in the medical record.

(c) A health care practitioner may not issue an opioid prescription to a minor for more than a three-day supply and shall discuss with the parent or guardian of the minor the risks associated with opioid use and the reasons why the prescription is necessary.

(d) A dentist or an optometrist may not issue an opioid prescription for more than a three-day supply at any time.

(e) A practitioner may not issue an initial opioid prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgement of the practitioner would be the best course of treatment for this patient and his or her condition.

(f) Prior to issuing an initial opioid prescription, a practitioner shall:

(1) Take and document the results of a thorough medical history, including the patient's experience with nonopioid medication, nonpharmacological pain management approaches, and substance abuse history;

(2) Conduct, as appropriate, and document the results of a physical examination;

(3) Develop a treatment plan, with particular attention focused on determining the cause of the patient's pain; and

(4) Access relevant prescription monitoring information under the Controlled Substances Monitoring Program Database.

(g) Notwithstanding any provision of this code or legislative rule to the contrary, no medication listed as a Schedule II controlled

substance as set forth in §60A-2-206 of this code, may be prescribed by a practitioner for greater than a 30-day supply: *Provided*, That two additional prescriptions, each for a 30-day period for a total of a 90-day supply, may be prescribed if the practitioner accesses the West Virginia Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code: *Provided*, however, That the limitations in this section do not apply to cancer patients, patients receiving hospice care from a licensed hospice provider, patients receiving palliative care, a patient who is a resident of a long-term care facility, or a patient receiving medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(h) A practitioner is required to conduct and document the results of a physical examination every 90 days for any patient for whom he or she continues to treat with any Schedule II controlled substance as set forth in §60-2-206 of this code.

(i) A veterinarian licensed pursuant to the provisions of §30-10-1 et seq. of this code may not issue more than an initial opioid prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgment of the veterinarian would be the best course of treatment for this patient and his or her condition.

(j) A prescription for any opioid drug listed on Schedule II as set forth in §60A-2-206 of this code for greater than a seven-day period shall require the patient to execute a narcotics contract with their prescribing practitioner. The contract shall be made a part of the patient's medical record. The narcotics contract is required to provide that:

(1) The patient agrees only to obtain scheduled medications from this particular prescribing practitioner;

(2) The patient agrees he or she will only fill those prescriptions at a single pharmacy which includes a pharmacy with more than one location;

(3) The patient agrees to notify the prescribing practitioner within 72 hours of any emergency where he or she are prescribed scheduled medication; and

(4) If the patient fails to honor the provisions of the narcotics contract, the prescribing practitioner may either terminate the provider-patient relationship or continue to treat the patient without prescribing a Schedule II opioid for the patient. Should the practitioner decide to terminate the relationship, he or she is required to do so pursuant to the provisions of this code and any rules promulgated hereunder. Termination of the relationship for the patient's failure to honor the provisions of the contract is not subject to any disciplinary action by the practitioner's licensing board.;

On pages twenty-seven and twenty-eight, by striking out all of section eight and inserting in lieu thereof a new section, designated section eight, to read as follows:

§16-54-8. Treatment of pain.

(a) When patients seek treatment for any of the myriad conditions that cause pain, a health care practitioner shall refer or prescribe to a patient any of the following treatment alternatives, based on the practitioner's clinical judgment and the availability of the treatment, before starting a patient on an opioid: physical therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code.

(b) Nothing in this section should be construed to require that all of the treatment alternatives set forth in §16-54-8(a) of this code are required to be exhausted prior to the patient receiving a prescription for an opioid.

(c) At a minimum an insurance provider who offers an insurance product in this state, the Bureau for Medical Services and the Public Employees Insurance Agency shall provide coverage for 20 visits per event of physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program,

and chiropractic services, as defined in §30-16-3 of this code, when ordered by a health care practitioner to treat conditions that cause chronic pain.

(d) A patient may seek treatment for physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, prior to seeking treatment from a practitioner and a practitioner referral is not required as a condition of coverage by the Bureau for Medical Services, the Public Employees Insurance Agency, and any insurance provider who offers an insurance product in this state. Any deductible, coinsurance, or co-pay required for any of these services may not be greater than the deductible, coinsurance, or co-pay required for a primary care visit.

(e) Nothing in this section precludes a practitioner from simultaneously prescribing an opioid and prescribing or recommending any of the procedures set forth in §16-54-8(a) of this code.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Com. Sub. for Senate Bill 273—A Bill to amend and reenact §16-5H-2 and §16-5H-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5Y-2, §16-5Y-4, and §16-5Y-5 of said code; to amend said code by adding thereto a new article, designated §16-54-1, §16-54-2, §16-54-3, §16-54-4, §16-54-5, §16-54-6, §16-54-7, §16-54-8, and §16-54-9; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3A-1, §30-3A-2, §30-3A-3, and §30-3A-4 of said code; to amend and reenact §30-4-19 of said code; to amend and reenact §30-5-6 of said code; to amend and reenact §30-7-11 of said code; to amend and reenact §30-8-18 of said code; to amend and reenact §30-10-19 of said code; to amend and reenact §30-14-12a of said code; to amend and reenact §30-36-2 of said code; to amend said code by adding thereto a new section, designated §60A-5-509; and to amend and reenact §60A-9-4, §60A-9-5, and §60A-9-5a of said

code, all relating to reducing the use of certain prescription drugs; providing for an exemption from registration for office-based, medication-assisted treatment program in specified cases; providing for an exemption for medication-assisted treatment programs; clarifying physician responsibility for medication-assisted treatment; clarifying definition of “pain management clinic”; providing for emergency rulemaking; defining terms; providing for an advance directive; requiring consultation with patients prior to prescribing an opioid; limiting the amount of opioid prescriptions; requiring a narcotics contract in certain circumstances; providing exceptions to prescribing limits; providing for referral to a pain clinic or pain specialist; providing reports to licensing boards regarding abnormal or unusual prescribing practices; requiring referral to certain alternative treatments; requiring insurance coverage for certain procedures to treat chronic pain; updating board’s titles; requiring the Board of Pharmacy to report quarterly to various licensing boards; exempting the Board of Pharmacy from certain purchasing requirements; clarifying who must report to the Controlled Substances Monitoring Database; clarifying the practice of acupuncture; precluding retaliation against a health care provider for declining to prescribe a narcotic; and permitting the investigation and discipline for abnormal and unusual prescribing and dispensing of prescription drugs.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 273, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 273 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 273) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 275, Relating to tax on purchases of intoxicating liquors.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page eleven, section nine-d, line sixteen, after the word “code.” by inserting the following: For purposes of this article, the term “original sealed package” means an original sealed package as defined in §8-13-7 of this code.;

On page twelve, section nine-d, lines twenty-four through twenty-six, by striking out all of paragraph (B) and inserting in lieu thereof a new paragraph, designated paragraph (B), to read as follows:

(B) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the

state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.;

And,

On page thirteen, section twenty-one, lines thirteen through seventeen, by striking out all of subdivisions (2) and (3) and inserting in lieu thereof two new subdivisions, designated subdivisions (2) and (3), to read as follows:

(2) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.

(3) When determining whether the tax is collected on sales within the corporate limits of any municipality, a seller shall use the sourcing rules provided in §11-15B-1 *et seq.* of this code.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 275) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub. for Senate Bill 275—A Bill to amend and reenact §11-10-5d of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-9d of said code; and to amend and reenact §60-3A-21 of said code, all relating to the excise tax on sales of intoxicating liquors and wine; defining terms; providing that tax collected on sales sourced within the corporate limits of a municipality be remitted to the municipality; providing that the tax collected on sales sourced outside the corporate limits of a municipality be remitted to the county; providing rule-making authority; providing sourcing rules for determining whether tax is collected within or outside of the corporate limits of a municipality; permitting counties to inspect and make copies of certain Tax Commissioner records relating to the collection of tax within the

county and the municipalities in the county or the remittance of tax to such county or municipalities; and permitting municipalities to inspect and make copies of certain Tax Commissioner records relating to the collection of tax within the municipality and within the county in which the municipality is located, but outside of the corporate limits of another municipality, and the remittance of tax to such municipality and county.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 275, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Azinger, Gaunch, and Smith—3.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 275) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Com. Sub. for Senate Bill 290, Relating to DEP standards of water quality and effluent limitations.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 322, Relating to employees of Department of Agriculture.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

Eng. Senate Bill 385, Decreasing and adding appropriations out of Treasury to DHHR and MAPS.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 392, Reconfiguring membership of Emergency Medical Services Advisory Council.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section five, line nine, by striking out “15” and inserting in lieu thereof “18”;

On page two, section five, lines thirty and thirty-one, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

“(3) Three persons to represent the general public;”;

On page two, section five, after line thirty-one, by inserting a new subdivision, designated subdivision (4), to read as follows:

“(4) One person to represent emergency medical services training officers or representatives; and”;

And,

By renumbering the remaining subdivision.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 392) and requested the House of Delegates to recede therefrom.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 411, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 463, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 7. PURE FOOD AND DRUGS.

§16-7-5a. Joint Task Force on Milk Rules and Regulations.

(a) The Legislature finds that it is in the public interest to examine the potential benefit and economies of scale by transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture.

(b) On or before June 1, 2018, the Governor shall appoint a Joint Task Force on Milk Rules and Regulations composed of the following fifteen members:

(1) One representative from the Department of Agriculture;

(2) One representative from the Bureau for Public Health;

(3) One representative of the West Virginia University Extension Service;

(4) One representative from local health departments in the state;

(5) Two representatives from a trade or industry group representing the farming and agriculture industry in the state, at least one of whom shall be a dairy farmer;

(6) Three citizen members;

(7) Three Senators as recommended by the President of the Senate, no more than two of whom shall be from the same political party; and

(8) Three Delegates as recommended by the Speaker of the House of Delegates, no more than two of whom shall be from the same political party.

(c) The representative from the Department of Agriculture shall preside over the work group and shall provide staff to facilitate meetings of the Joint Task Force. The Joint Task Force shall examine the potential benefit and economies of scale of transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture. The task force may recommend legislation to the Governor and to the Joint Committee on Government and Finance no later than December 31, 2018.

(d) The expenses of the members on the task force shall be paid equally from the funds of the Department of Agriculture, the Bureau for Public Health, and the West Virginia University

Extension Service: *Provided*, That the members of the Joint Task Force may receive no compensation for their services other than actual expenses incurred in the discharge of their duties as members of the Joint Task Force.

(d) The authority of the Joint Task Force on Milk Rules and Regulations shall sunset and expire and is of no force and effect after December 31, 2018, or upon submission of any recommendations or draft legislation, whichever comes first.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 463—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-7-5a, relating to authorizing the establishment of a Joint Task Force on Milk Rules and Regulations; providing for the appointment of certain members by the Governor; authorizing the task force to study milk rules and regulations; providing for reimbursement of actual expenses for members; providing task force members may receive no compensation; authorizing the task force to propose legislation; and providing for the sunset of the task force.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 463) were reported by the Clerk, considered simultaneously, and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 16

ARTICLE 7. PURE FOOD AND DRUGS.

§16-7-5a. Joint Task Force on Milk Rules and Regulations.

(a) The Legislature finds that it is in the public interest to examine the potential benefit and economies of scale by

transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture.

(b) On or before June 1, 2018, the Governor shall appoint a Joint Task Force on Milk Rules and Regulations composed of the following fifteen members:

(1) One representative from the Department of Agriculture;

(2) One representative from the Bureau for Public Health;

(3) One representative of the West Virginia University Extension Service;

(4) One representative from local health departments in the state;

(5) Two representatives from a trade or industry group representing the farming and agriculture industry in the state, at least one of whom shall be a dairy farmer;

(6) Three citizen members;

(7) Three Senators as recommended by the President of the Senate, no more than two of whom shall be from the same political party; and

(8) Three Delegates as recommended by the Speaker of the House of Delegates, no more than two of whom shall be from the same political party.

(c) The representative from the Department of Agriculture shall preside over the work group and shall provide staff to facilitate meetings of the Joint Task Force. The Joint Task Force shall examine the potential benefit and economies of scale of transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture. The task force shall recommend legislation to the Governor and to the Joint Committee on Government and Finance no later than December 31, 2018.

(d) The expenses of the members on the task force shall be paid equally from the funds of the Department of Agriculture, the Bureau for Public Health, and the West Virginia University Extension Service: *Provided*, That the members of the Joint Task Force may receive no compensation for their services other than actual expenses incurred in the discharge of their duties as members of the Joint Task Force.

(d) The authority of the Joint Task Force on Milk Rules and Regulations shall sunset and expire and is of no force and effect after December 31, 2018, or upon submission of any recommendations or draft legislation, whichever comes first.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 463—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-7-5a, relating to authorizing the establishment of a Joint Task Force on Milk Rules and Regulations; providing for the appointment of certain members by the Governor; authorizing the task force to study milk rules and regulations; providing for reimbursement of actual expenses for members; providing task force members may receive no compensation; requiring the task force to propose legislation; and providing for the sunset of the task force.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 463, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Romano—2.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 463) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Romano—2.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 463) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Senate Bill 506, Deregulating persons who perform work on heating, ventilating, and cooling systems.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page four, section five, line nine, by striking out the word “relating” and inserting in lieu thereof the word “related”;

On page four, section five, lines twenty-one and twenty-two, by striking out the words “purposes set forth in the amendments to this article that were made effective July 1, 2018, including, but not limited to” and inserting in lieu thereof the words “purpose of describing”;

On page five, section five, line twenty-four, by striking out the words “without examination”;

And,

On page five, section five, line thirty-five, after the word “representatives;” by inserting the word “and”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 506, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Palumbo, Plymale, Prezioso, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: Facemire, Ojeda, and Romano—3.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 506) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 525, Relating to certification for emergency medical training - mining.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page two, section three, line thirty-four, by striking out the word “commissioner” and inserting in lieu thereof the word “director”;

On page three, section three, line forty-four, by striking out the words “certification and”;

And,

On page three, section three, lines forty-seven through forty-nine, by striking out the words “have a valid cardiopulmonary resuscitation certification and must be an approved Mine Safety and Health Administration- or Occupational Safety and Health Administration-certified instructor”_and inserting in lieu thereof the words “obtain an EMT-M Instructor Certification issued by the West Virginia Office of Miners’ Health, Safety and Training”.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. S. B. 525) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 525—A Bill to repeal §16-4C-6c of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22A-10-3, relating to

emergency medical technicians – mining; transferring certification requirements for emergency medical technician – mining to the chapter governing miners’ health, safety and training; eliminating authority of director of Miners’ Health Safety and Training to authorizing providers to administer certification courses and examination; modifying requirements for training personnel and independent trainers; and making technical corrections.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 525, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 525) passed with its Senate amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect from passage, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Com. Sub. for Senate Bill 548, Authorizing county commissions to pass election officials.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

On further motion of Senator Ferns, the Senate concurred in the changed effective date of the bill, that being to take effect from passage, instead of ninety days from passage.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 548) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Senate Bill 585, Altering boundary line between Doddridge and Harrison counties.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

THE BOUNDARY LINE BETWEEN DODDRIDGE COUNTY AND HARRISON COUNTY.

§1. The boundary line between Doddridge County and Harrison County.

§1. That the following bounded and described area of land now a part of the county of Doddridge and adjoining the county of Harrison shall be and is hereby severed from said county of Doddridge and attached to the county of Harrison, state of West Virginia. The boundary line between Doddridge and Harrison Counties is and shall be modified so that all property of the Salem Correctional Center, formerly the West Virginia Industrial Home, shall be within Harrison County as follows:

Beginning at a point in the chain link fence on the line between Doddridge County and Harrison County, West Virginia, being the northwest corner of the tract of land herein described, and bearing, South 46 degrees 40 minutes 09 seconds East, a distance of 127.43 feet from a 3/4" iron rebar and cap now set at an angle point on said county line between Doddridge and Harrison Counties, said point being on the lands of West Virginia State Industrial Home (Tax Map 301 Parcel 32, Deed Book 101 Page 570) (Harrison County);

Thence, running with said county line and through said West Virginia State Industrial Home (Parcel 32), lands, South 46 degrees 40 minutes 09 seconds East, for a distance of 407.12 feet to a MAG nail now set;

Thence, partially through said West Virginia State Industrial Home (Parcel 32), lands and other lands of the State of West Virginia (Tax Map 22 Parcel 40) (Doddridge County), South 21 degrees 20 minutes 14 seconds West, passing a chain link fence at a distance of 491.50 feet, for a total distance of 645.89 feet to a point in said chain link fence, which bears, North 21 degrees 20 minutes 14 seconds East, a distance of 442.94 feet from a MAG

nail now set in Harrison County Route 50/29 and Doddridge County Route 38;

Thence, leaving said county line between said Doddridge and Harrison Counties, and through said State of West Virginia (Parcel 40) (Doddridge County) and with said chain link fence, South 68 degrees 39 minutes 55 seconds West, a distance of 114.17 feet to a point;

Thence, South 04 degrees 41 minutes 59 seconds East, a distance of 30.17 feet to a point;

Thence, South 01 degrees 18 minutes 54 seconds East, a distance of 10.28 feet to a point;

Thence, South 03 degrees 43 minutes 27 seconds West, a distance of 10.10 feet to a point;

Thence, South 12 degrees 11 minutes 09 seconds West, a distance of 20.48 feet to a point;

Thence, South 55 degrees 59 minutes 51 seconds West, a distance of 37.73 feet to a point;

Thence, South 44 degrees 19 minutes 41 seconds West, a distance of 20.08 feet to a point;

Thence, South 47 degrees 36 minutes 07 seconds West, a distance of 10.05 feet to a point;

Thence, South 52 degrees 08 minutes 56 seconds West, a distance of 40.38 feet to a point;

Thence, South 64 degrees 50 minutes 32 seconds West, a distance of 10.40 feet to a point;

Thence, South 60 degrees 52 minutes 42 seconds West, a distance of 159.19 feet to a point;

Thence, North 88 degrees 14 minutes 48 seconds West, a distance of 29.94 feet to a point;

Thence, South 84 degrees 54 minutes 06 seconds West, a distance of 38.29 feet to a point;

Thence, South 79 degrees 27 minutes 07 seconds West, a distance of 80.87 feet to a point;

Thence, South 81 degrees 09 minutes 06 seconds West, a distance of 9.85 feet to a point;

Thence, South 87 degrees 05 minutes 26 seconds West, a distance of 9.99 feet to a point;

Thence, North 84 degrees 40 minutes 59 seconds West, a distance of 10.30 feet to a point;

Thence, North 01 degrees 54 minutes 25 seconds East, a distance of 19.89 feet to a point;

Thence, North 77 degrees 48 minutes 02 seconds West, a distance of 9.53 feet to a point;

Thence, North 70 degrees 19 minutes 32 seconds West, a distance of 8.19 feet to a point;

Thence, North 63 degrees 03 minutes 51 seconds West, a distance of 8.36 feet to a point;

Thence, North 55 degrees 42 minutes 57 seconds West, a distance of 9.10 feet to a point;

Thence, North 48 degrees 39 minutes 56 seconds West, a distance of 10.24 feet to a point;

Thence, North 38 degrees 36 minutes 40 seconds West, a distance of 39.22 feet to a point;

Thence, North 39 degrees 39 minutes 58 seconds West, a distance of 39.85 feet to a point;

Thence, North 39 degrees 47 minutes 57 seconds West, a distance of 94.34 feet to a point;

Thence, North 34 degrees 34 minutes 50 seconds West, a distance of 49.99 feet to a point;

Thence, North 34 degrees 17 minutes 51 seconds West, a distance of 60.62 feet to a point;

Thence, North 33 degrees 07 minutes 52 seconds West, a distance of 88.90 feet to a point;

Thence, North 33 degrees 22 minutes 22 seconds West, a distance of 69.52 feet to a point;

Thence, North 28 degrees 27 minutes 37 seconds East, a distance of 10.45 feet to a point;

Thence, North 54 degrees 04 minutes 14 seconds East, a distance of 30.48 feet to a point;

Thence, North 57 degrees 37 minutes 32 seconds East, a distance of 19.94 feet to a point;

Thence, North 64 degrees 35 minutes 58 seconds East, a distance of 19.96 feet to a point;

Thence, North 68 degrees 13 minutes 15 seconds East, a distance of 19.08 feet to a point;

Thence, North 71 degrees 59 minutes 48 seconds East, a distance of 40.17 feet to a point;

Thence, North 74 degrees 21 minutes 11 seconds East, a distance of 164.94 feet to a point;

Thence, North 48 degrees 23 minutes 34 seconds East, a distance of 9.24 feet to a point;

Thence, North 37 degrees 13 minutes 32 seconds East, a distance of 81.25 feet to a point;

Thence, North 27 degrees 50 minutes 49 seconds East, a distance of 198.04 feet to a point;

Thence, North 56 degrees 53 minutes 52 seconds East, a distance of 66.32 feet to a point;

Thence, North 44 degrees 13 minutes 13 seconds East, a distance of 20.63 feet to a point;

Thence, North 35 degrees 45 minutes 02 seconds East, a distance of 54.35 feet to a point;

Thence, North 41 degrees 32 minutes 03 seconds West, a distance of 70.20 feet to a point;

Thence, North 31 degrees 14 minutes 26 seconds East, a distance of 278.48 feet to a point;

Thence, North 81 degrees 03 minutes 31 seconds East, a distance of 130.95 feet to the Point of Beginning, containing 14.20 acres, MORE OR LESS, as shown on an exhibit attached hereto and made a part of this description.

The tract or parcel of land herein described being part of the same lands conveyed to West Virginia State Industrial Home in Deed Book 101 Page 570 at the Office of the Clerk, Harrison County, West Virginia and State of West Virginia as recorded in at the Office of the Clerk, Doddridge County, West Virginia.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill 585—A Bill to attach to Harrison County an area of Doddridge County so as to place all of the grounds of the Salem Correctional Center, formerly the West Virginia Industrial Home, within the boundary of Harrison County and to change the boundary line between said counties in conformity therewith.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 585, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 585) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 585) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

Eng. Com. Sub. for House Bill 4016, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 4183, Relating generally to standardized testing requirements for nonpublic schools.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

Eng. House Bill 4462, Allowing off duty members and officers of the department of public safety to guard private property.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

Eng. Com. Sub. for House Bill 4522, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Com. Sub for House Bill 4522—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-5dd, relating to allowing certain tax information to be shared with the State Auditor and the chief executive officer of the Enterprise Resource Planning Board and of certain other agencies pursuant to written agreements; and defining terms.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 4522, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4522) passed with its House of Delegates amended title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the adoption, as amended, of

House Concurrent Resolution 5, U. S. Army PFC Jessie Franklin Crow Memorial Bridge.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of

House Concurrent Resolution 100—Requesting the Division of Highways name bridge number S331-Hgh/St-0.01, locally known as the South High Street Bridge, carrying County Route

119/39 over Deckers Creek in Monongalia County, the “Morgantown High School Veterans Bridge”.

At the request of Senator Boso, and by unanimous consent, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, the same was put and prevailed.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Following a point of inquiry to the President, with resultant response thereto,

At the request of Senator Gaunch, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

At the request of Senator Beach, unanimous consent being granted, Senator Beach addressed the Senate regarding the Governor’s appointment of six additional women to the Public Employees Insurance Task Force.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Ferns, the Senate recessed until 7:30 p.m. tonight.

The Senate reconvened at 8:14 p.m. tonight and again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

Eng. Com. Sub. for House Bill 4401, Relating to the registration of business.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

On page four, section eleven, subsection (c), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page five, section eight, subsection (a), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page seven, section five-c, subsection (e), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page nine, section nine, subsection (g), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page ten, section four, subsection (c), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

On page ten, section seventeen, subsection (a), after the word “obligations” by changing the period to a colon and inserting the

following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page twelve, section nine, after the word "obligations" by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page thirteen, section seven, subsection (c), after the word "obligations" by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page fourteen, section ten, after the word "obligations" by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page fifteen, section eight, subsection (c), after the word "obligations" by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page fifteen, section twenty, subsection (b), after the word "obligations" by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page sixteen, section twenty-one, subsection (e), after the word "obligations" by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division's funding obligations.;

On page seventeen, section twenty-two, subsection (c), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.;

And,

On page eighteen, section fourteen, subsection (d), after the word “obligations” by changing the period to a colon and inserting the following proviso: Provided, That beginning July 1, 2019, amounts collected may not be utilized by the commissioner as needed to meet the division’s funding obligations.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4401, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Beach, Mann, Stollings, Takubo, Trump, and Woelfel—6.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4401) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Palumbo,

Plymale, Prezioso, Romano, Rucker, Smith, Swope, Sypolt, Unger, Weld, and Carmichael (Mr. President)—28.

The nays were: None.

Absent: Beach, Mann, Stollings, Takubo, Trump, and Woelfel—6.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4401) takes effect from passage.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

Executive Communications

The Clerk then presented communications from His Excellency, the Governor, advising that on March 9, 2018, he had approved **Enr. Committee Substitute for Senate Bill 360, Enr. Committee Substitute for House Bill 2889, Enr. Committee Substitute for House Bill 4268, and Enr. House Bill 4385.**

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 9th day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 37), Equalizing penalty for entering without breaking regardless of time of day.

(Com. Sub. for S. B. 73), Modifying crime of fleeing from scene of accident.

(Com. Sub. for S. B. 110), Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

(Com. Sub. for S. B. 134), Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

(S. B. 143), Permitting DNR identification tag be used to identify trap.

(Com. Sub. for S. B. 146), Correcting technical error within Solid Waste Management Act.

(Com. Sub. for S. B. 181), Authorizing MAPS promulgate legislative rules.

(Com. Sub. for Com. Sub. for S. B. 307), Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance.

(Com. Sub. for S. B. 327), Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty.

(S. B. 338), Changing date for employers to file annual reconciliation and withholding statements.

(S. B. 343), Limiting expenses in preparing list for notice to redeem.

(S. B. 346), Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

(Com. Sub. for S. B. 348), Allowing for disposal of service weapons of special DNR police officers.

(S. B. 350), Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State.

(S. B. 351), Permitting ballot commissioners serve while candidates for certain offices.

(S. B. 364), Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle.

(Com. Sub. for S. B. 395), Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

(Com. Sub. for S. B. 397), Creating crime of impersonating blind or disabled person.

(S. B. 444), Repealing antiquated code sections regarding safety glass and lighting in motor vehicles.

(S. B. 464), Changing statutory payment date for incremental salary increases due state employees.

(S. B. 539), Increasing limit for settling claims against DOH.

(Com. Sub. for S. B. 561), Increasing minimum contract price requiring execution of bond with respect to building or repairing school property.

(Com. Sub. for H. B. 2483), Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

(Com. Sub. for H. B. 4169), Requiring certain establishments and facilities to post human trafficking assistance notices.

(Com. Sub. for H. B. 4238), Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

(H. B. 4402), Relating to the prevention of sexual abuse of children.

(H. B. 4410), Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

(H. B. 4436), Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

(Com. Sub. for H. B. 4444), Clarifying the authority of the State Fire Commission in adopting a State Building Code.

And,

(H. B. 4624), Relating to West Virginia coordinate systems.

Respectfully submitted,

Mark R. Maynard,
Chair, Senate Committee.
Roger Hanshaw,
Chair, House Committee.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Senate Concurrent Resolution 68 (originating in the Committee on the Judiciary)—Requesting the Joint Committee on Government and Finance to study the potential creation of a nonpartisan commission tasked with planning and mapping state legislative election districts, to be enacted by the Legislature, following the United States Census in 2020.

Whereas, The right to vote and the fair representation of citizens by their elected officials is fundamental to West Virginia's founding principles; and

Whereas, Election districts that reflect partisan interests undermine the basic tenets of healthy democracy, including fair representation and government accountability; and

Whereas, Redistricting procedures in this state should be reformed to ensure a system of representative politics; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the potential creation of a nonpartisan commission tasked with planning and mapping state legislative election districts, to be enacted by the Legislature, following the United States Census in 2020; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and other recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, prepare a report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted.

Respectfully submitted,

Charles S. Trump IV,
Chair.

On motion of Senator Ferns, the resolution (S. C. R. 68) contained in the foregoing report from the Committee on the Judiciary was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 69 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the development of an Office of Outdoor Recreation within the Division of Natural Resources.

Whereas, Facilitating and preserving opportunities for outdoor recreation in West Virginia could lead to the creation of jobs and help stimulate local economies through tourism, both by attracting out-of-state visitors and by increasing national awareness of the outdoor recreational opportunities and resources in this state; and

Whereas, The creation of an Office of Outdoor Recreation within the Division of Natural Resources could be instrumental in coordinating resources, policies, information, funding, and communications to further these goals; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the development of an Office of Outdoor Recreation within the Division of Natural Resources; and, be it

Further Resolved, That input shall be sought from appropriate state, local, and private entities, including, but not limited to, the Division of Natural Resources and the Division of Tourism; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 69) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

Senator Maynard, from the Committee on Natural Resources, submitted the following report, which was received:

Your Committee on Natural Resources has had under consideration

Senate Concurrent Resolution 70 (originating in the Committee on Natural Resources)—Requesting the Joint Committee on Government and Finance study the ways to deter wanton waste of game animals, game birds, and game fish.

Whereas, It is deleterious to the quality of West Virginia's fields, woods, and streams for persons to waste game fish, game birds, and game animals by taking therefrom only certain valuable parts and leaving the remainder unused to simply decay; and

Whereas, The problems posed by such waste could be ameliorated by creating and/or enhancing penalties against persons engaged in such waste; and

Whereas, Before enacting legislation to prohibit any behavior related to such waste, the legislature would benefit from a study considering what, if any, consensus exists on how little use of particular types of game is acceptable before partial use degenerates into wanton waste, and what legislative action could best deter it; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the ways to deter wanton waste of game animals, game birds, and game fish; and, be it

Further Resolved, That input shall be sought from appropriate state, local, and private entities, including, but not limited to, the Division of Natural Resources; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Ferns, and by unanimous consent, the resolution (S. C. R. 70) contained in the foregoing report from the Committee on Natural Resources was then referred to the Committee on Rules.

The Senate again proceeded to the fifth order of business.

Filed Conference Committee Reports

The Clerk announced the following conference committee reports had been filed at 8:19 p.m. tonight:

Eng. Com. Sub. for Senate Bill 51, Relating to domestic relations.

And,

Eng. Senate Bill 545, Relating to driving privileges and requirements for persons under 18.

On motion of Senator Ferns, at 8:23 p.m., the Senate adjourned until tomorrow, Saturday, March 10, 2018, at 11 a.m.

SATURDAY, MARCH 10, 2018

The Senate met at 11:41 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan W. Weld, a senator from the first district.

Pastor Debbie Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia, then proceeded in the singing of "There's a Blessing in This House".

Pending the reading of the Journal of Friday, March 9, 2018,

At the request of Senator Romano, 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 Clerk presented the following communications from various state agencies as required by the provisions of law:

Motor Vehicles, Division of (Motorcycle Safety Awareness Program Board) (§17B-1D-8)

Treasurer (Debt Capacity) (§12-6A-6)

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

Eng. Com. Sub. for Senate Bill 152, Budget Bill.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

TITLE I – GENERAL PROVISIONS.

Section 1. General policy. – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2019.

Sec. 2. Definitions. — For the purpose of this bill:

“Governor” shall mean the Governor of the State of West Virginia.

“Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

“Spending unit” shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The “fiscal year 2019” shall mean the period from July 1, 2018, through June 30, 2019.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

Sec. 3. Classification of appropriations. — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. “Personal services” shall include “annual increment” for “eligible employees” and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation

be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its “unclassified” appropriation, or its “current expenses” appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

“BRIM Premiums” shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for “BRIM Premium” be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its “unclassified” appropriation, its “current expenses” appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for “BRIM Premium” such costs shall be paid by each spending unit from its “current expenses” appropriation, “unclassified” appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be

responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

“Equipment” shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

“Repairs and alterations” shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

“Buildings” shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

“Lands” shall mean the purchase of real property or interest in real property.

“Capital outlay” shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation

unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation except that for funds appropriated in Title II – Section 3, 6, or 7 funds may be transferred to the “personal services and employee benefits” appropriation of the same fund in an amount not to exceed 5% of the enrolled appropriation for “personal services and employee benefits”: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the

Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

Sec. 4. Method of expenditure. — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

Sec. 5. Maximum expenditures. — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.

- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

Section 1. Appropriations from general revenue. – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2019.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2019 Org 2100

| Appropriation | General Revenue Fund |
|----------------------|-----------------------------|
|----------------------|-----------------------------|

| | | | |
|----|--|-------|---------------|
| 1 | Compensation of Members (R)..... | 00300 | \$ 1,010,000 |
| 2 | Compensation and Per Diem of Officers | | |
| 3 | and Employees (R) | 00500 | 4,011,332 |
| 4 | Current Expenses and Contingent Fund (R).... | 02100 | 276,392 |
| 5 | Repairs and Alterations (R) | 06400 | 50,000 |
| 6 | Computer Supplies (R) | 10100 | 20,000 |
| 7 | Computer Systems (R)..... | 10200 | 60,000 |
| 8 | Printing Blue Book (R) | 10300 | 125,000 |
| 9 | Expenses of Members (R)..... | 39900 | 370,000 |
| 10 | BRIM Premium (R) | 91300 | <u>29,482</u> |
| 11 | Total..... | | \$ 5,952,206 |

The appropriations for the Senate for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

2 - House of Delegates

Fund 0170 FY 2019 Org 2200

1 Compensation of Members (R).....00300 \$ 3,000,000

| | | | |
|---|--|-------|---------------|
| 2 | Compensation and Per Diem of Officers | | |
| 3 | and Employees (R) | 00500 | 575,000 |
| 4 | Current Expenses and Contingent Fund (R) . | 02100 | 3,909,031 |
| 5 | Expenses of Members (R)..... | 39900 | 1,350,000 |
| 6 | BRIM Premium (R) | 91300 | <u>70,000</u> |
| 7 | Total..... | | \$ 8,904,031 |

The appropriations for the House of Delegates for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates, upon approval of the House committee on rules, shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker, with the approval of the House committee on rules, during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby

authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker, with the approval of the House committee on rules, and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2019 Org 2300

| | | | |
|---|--------------------------------------|-------|---------------|
| 1 | Joint Committee on Government | | |
| 2 | and Finance (R)..... | 10400 | \$ 5,725,138 |
| 3 | Legislative Printing (R)..... | 10500 | 760,000 |
| 4 | Legislative Rule-Making | | |
| 5 | Review Committee (R)..... | 10600 | 147,250 |
| 6 | Legislative Computer System (R)..... | 10700 | 1,447,500 |
| 7 | BRIM Premium (R) | 91300 | <u>60,569</u> |
| 8 | Total..... | | \$ 8,140,457 |

The appropriations for the Joint Expenses for the fiscal year 2018 are to remain in full force and effect and are hereby

reappropriated to June 30, 2019. Any balances reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

JUDICIAL

4 - Supreme Court –

General Judicial

Fund 0180 FY 2019 Org 2400

| | | | |
|----|-------------------------------------|-------|----------------|
| 1 | Personal Services and | | |
| 2 | Employee Benefits (R) | 00100 | \$102,856,258 |
| 3 | Children’s Protection Act (R) | 09000 | 214,700 |
| 4 | Current Expenses (R) | 13000 | 32,882,879 |
| 5 | Repairs and Alterations (R) | 06400 | 236,450 |
| 6 | Equipment (R)..... | 07000 | 1,800,000 |
| 7 | Judges’ Retirement System (R)..... | 11000 | 779,000 |
| 8 | Buildings (R)..... | 25800 | 100,000 |
| 9 | Other Assets (R)..... | 69000 | 200,000 |
| 10 | BRIM Premium (R) | 91300 | <u>690,383</u> |
| 11 | Total..... | | \$139,759,670 |

The appropriations to the Supreme Court of Appeals for the fiscal years 2017 and 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so

reappropriated may be transferred and credited to the fiscal year 2018 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions there from as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2019 Org 0100

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 3,171,318 |
| 2 | Current Expenses (R).....13000 | 760,888 |
| 3 | Repairs and Alterations.....06400 | 2,000 |
| 4 | National Governors Association12300 | 60,700 |
| 5 | Herbert Henderson | |
| 6 | Office of Minority Affairs13400 | 146,726 |
| 7 | BRIM Premium.....91300 | <u>183,645</u> |
| 8 | Total..... | \$ 4,325,277 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2019 Org 0100

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 364,421 |
| 2 | Current Expenses (R).....13000 | | 183,158 |
| 3 | Repairs and Alterations.....06400 | | <u>5,000</u> |
| 4 | Total..... | \$ | 552,579 |

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2019 Org 0100

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total –

Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.

8 - Auditor's Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2019 Org 1200

| | | |
|---|--|---------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 2,694,191 |
| 2 | Current Expenses (R).....13000 | 13,429 |
| 3 | BRIM Premium.....91300 | <u>12,077</u> |
| 4 | Total..... | \$ 2,719,697 |

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2019 Org 1300

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,480,419 |
| 2 | Unclassified.....09900 | 30,415 |
| 3 | Current Expenses (R).....13000 | 475,100 |
| 4 | Abandoned Property Program.....11800 | 41,794 |
| 5 | Other Assets.....69000 | 10,000 |
| 6 | ABLE Program69202 | 150,000 |
| 7 | BRIM Premium.....91300 | <u>59,169</u> |
| 8 | Total..... | \$ 3,246,897 |

Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2019 Org 1400

| | | |
|---|---|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 5,301,277 |
| 2 | Animal Identification Program03900 | 126,318 |
| 3 | State Farm Museum05500 | 87,759 |
| 4 | Current Expenses (R).....13000 | 141,960 |

| | | | |
|----|---------------------------------------|-------|---------------|
| 5 | Gypsy Moth Program (R) | 11900 | 954,230 |
| 6 | WV Farmers Market | 12801 | 150,467 |
| 7 | Black Fly Control..... | 13700 | 453,164 |
| 8 | Donated Foods Program | 36300 | 45,000 |
| 9 | Veterans to Agriculture Program | 36301 | 250,000 |
| 10 | Predator Control (R) | 47000 | 176,400 |
| 11 | Bee Research..... | 69100 | 67,822 |
| 12 | Microbiology Program..... | 78500 | 97,016 |
| 13 | Moorefield Agriculture Center | 78600 | 933,624 |
| 14 | Chesapeake Bay Watershed..... | 83000 | 106,803 |
| 15 | Livestock Care Standards Board..... | 84300 | 8,820 |
| 16 | BRIM Premium..... | 91300 | 138,905 |
| 17 | State FFA-FHA Camp and | | |
| 18 | Conference Center | 94101 | 613,246 |
| 19 | Threat Preparedness | 94200 | 70,731 |
| 20 | WV Food Banks..... | 96900 | 126,000 |
| 21 | Senior's Farmers' Market | | |
| 22 | Nutrition Coupon Program | 97000 | <u>55,835</u> |
| 23 | Total..... | | \$ 9,905,377 |

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2019 Org 1400

| | | | |
|---|--|----|---------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ | 754,823 |
| 2 | Unclassified.....09900 | | 77,059 |
| 3 | Current Expenses (R).....13000 | | 317,848 |
| 4 | Soil Conservation Projects (R).....12000 | | 6,649,447 |
| 5 | BRIM Premium.....91300 | | <u>34,428</u> |
| 6 | Total..... | \$ | 7,833,605 |

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

*12 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2019 Org 1400

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 640,093 |
| 2 | Unclassified.....09900 | | 7,090 |
| 3 | Current Expenses13000 | | <u>82,605</u> |
| 4 | Total..... | \$ | 729,788 |

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –**Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2019 Org 1400

| | | | |
|---|--|----|---------------|
| 1 | Programs and Awards for | | |
| 2 | 4-H Clubs and FFA/FHA.....57700 | \$ | 15,000 |
| 3 | Commissioner's Awards and Programs.....73700 | | <u>39,250</u> |
| 4 | Total..... | \$ | 54,250 |

*14 - Department of Agriculture –**West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2019 Org 1400

| | | | |
|---|---|----|--------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 96,735 |
|---|---|----|--------|

| | | | |
|---|-------------------|-------|------------|
| 2 | Unclassified..... | 09900 | <u>950</u> |
| 3 | Total..... | \$ | 97,685 |

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2019 Org 1500

| | | | |
|----|--------------------------------|-------|----------------|
| 1 | Personal Services and | | |
| 2 | Employee Benefits (R) | 00100 | \$ 2,537,784 |
| 3 | Unclassified (R) | 09900 | 24,428 |
| 4 | Current Expenses (R)..... | 13000 | 762,097 |
| 5 | Repairs and Alterations..... | 06400 | 1,000 |
| 6 | Equipment..... | 07000 | 1,000 |
| 7 | Criminal Convictions and | | |
| 8 | Habeas Corpus Appeals (R)..... | 26000 | 923,582 |
| 9 | Better Government Bureau | 74000 | 275,194 |
| 10 | BRIM Premium..... | 91300 | <u>120,654</u> |
| 11 | Total..... | \$ | 4,645,739 |

Any unexpended balances remaining in the above appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2019 Org 1600

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 118,794 |
| 2 | Unclassified (R)09900 | | 9,555 |
| 3 | Current Expenses (R)13000 | | 805,948 |
| 4 | BRIM Premium.....91300 | | <u>23,297</u> |
| 5 | Total..... | \$ | 957,594 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2019 Org 1601

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 2,477 |
| 2 | Unclassified.....09900 | | 75 |
| 3 | Current Expenses13000 | | <u>4,956</u> |
| 4 | Total..... | \$ | 7,508 |

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2019 Org 0201

| | | | |
|----|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 591,118 |
| 2 | Unclassified.....09900 | | 9,177 |
| 3 | Current Expenses13000 | | 85,446 |
| 4 | Repairs and Alterations.....06400 | | 100 |
| 5 | Equipment.....07000 | | 1,000 |
| 6 | Financial Advisor (R)30400 | | 27,546 |
| 7 | Lease Rental Payments51600 | | 15,000,000 |
| 8 | Design-Build Board54000 | | 4,000 |
| 9 | Other Assets.....69000 | | 100 |
| 10 | BRIM Premium.....91300 | | <u>6,299</u> |
| 11 | Total..... | \$ | 15,724,786 |

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of

the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2019 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2019 Org 0209

| | | | |
|---|--|----|--------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ | 64,696 |
| 2 | Unclassified.....09900 | | 1,400 |
| 3 | Current Expenses13000 | | 66,721 |
| 4 | GAAP Project (R).....12500 | | 593,684 |
| 5 | BRIM Premium.....91300 | | <u>7,517</u> |
| 6 | Total..... | \$ | 734,018 |

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2019 Org 0211

| | | |
|----|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,593,147 |
| 2 | Unclassified.....09900 | 20,000 |
| 3 | Current Expenses13000 | 728,849 |
| 4 | Repairs and Alterations.....06400 | 500 |
| 5 | Equipment.....07000 | 5,000 |
| 6 | Fire Service Fee12600 | 14,000 |
| 7 | Buildings (R).....25800 | 500 |
| 8 | Preservation and Maintenance of | |
| 9 | Statues and Monuments | |
| 10 | on Capitol Grounds.....37100 | 68,000 |
| 11 | Capital Outlay, Repairs and Equipment (R)58900 | 14,078,888 |
| 12 | Other Assets.....69000 | 500 |
| 13 | Land (R).....73000 | 500 |
| 14 | BRIM Premium.....91300 | <u>129,983</u> |
| 15 | Total..... | \$ 17,639,867 |

Any unexpended balances remaining in the above appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2019 Org 0213

| | | |
|---|--|--------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 1,023,307 |
| 2 | Unclassified.....09900 | 144 |
| 3 | Current Expenses13000 | 1,285 |
| 4 | Repairs and Alterations.....06400 | 200 |
| 5 | BRIM Premium.....91300 | <u>6,922</u> |
| 6 | Total..... | \$ 1,031,858 |

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2019 Org 0215

| | | |
|---|--|------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 779,867 |
| 2 | Unclassified.....09900 | 12,032 |

| | | | |
|---|------------------------------|-------|--------------|
| 3 | Current Expenses | 13000 | 440,247 |
| 4 | Repairs and Alterations..... | 06400 | 1,000 |
| 5 | Equipment..... | 07000 | 5,000 |
| 6 | Buildings (R)..... | 25800 | 100 |
| 7 | Other Assets..... | 69000 | <u>100</u> |
| 8 | Total..... | | \$ 1,238,346 |

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2019 Org 0217

| | | | |
|---|------------------------|-------|-----------|
| 1 | Current Expenses | 13000 | \$ 45,550 |
|---|------------------------|-------|-----------|

To pay expenses for members of the commission on uniform state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2019 Org 0219

| | | | |
|---|---|-------|---------------|
| 1 | Personal Services and Employee Benefits.... | 00100 | \$ 935,883 |
| 2 | Unclassified..... | 09900 | 1,000 |
| 3 | Current Expenses | 13000 | 143,754 |
| 4 | Equipment..... | 07000 | 50 |
| 5 | BRIM Premium..... | 91300 | <u>10,281</u> |
| 6 | Total..... | | \$ 1,090,968 |

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2019 Org 0220

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 588,831 |
| 2 | Unclassified.....09900 | | 2,200 |
| 3 | Current Expenses13000 | | 104,501 |
| 4 | Repairs and Alterations.....06400 | | 500 |
| 5 | Other Assets.....69000 | | 100 |
| 6 | BRIM Premium.....91300 | | <u>5,574</u> |
| 7 | Total..... | \$ | 701,706 |

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2019 Org 0221

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 1,367,785 |
| 2 | Unclassified.....09900 | | 314,700 |
| 3 | Current Expenses13000 | | 12,740 |
| 4 | Public Defender Corporations.....35200 | | 19,204,999 |
| 5 | Appointed Counsel Fees (R).....78800 | | 10,723,115 |
| 6 | BRIM Premium.....91300 | | <u>10,575</u> |
| 7 | Total..... | \$ | 31,633,914 |

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800).

28 - Committee for the Purchase of

Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2019 Org 0224

| | | | |
|---|---|-------|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 3,187 |
| 2 | Current Expenses | 13000 | <u>868</u> |
| 3 | Total..... | \$ | 4,055 |

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2019 Org 0225

| | | | |
|---|-------------------|-------|---------------|
| 1 | PEIA Subsidy..... | 80100 | \$ 21,000,000 |
|---|-------------------|-------|---------------|

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2019 Org 0228

| | | | | |
|---|---|-------|----|----------------|
| 1 | Forensic Medical Examinations (R) | 68300 | \$ | 139,611 |
| 2 | Federal Funds/Grant Match (R) | 74900 | | <u>101,418</u> |
| 3 | Total | | \$ | 241,029 |

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2019 Org 0233

| | | | | |
|---|--|-------|----|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ | 660,855 |
| 2 | Unclassified | 09900 | | 1,000 |
| 3 | Current Expenses | 13000 | | 138,631 |
| 4 | Repairs and Alterations | 06400 | | 100 |
| 5 | Equipment | 07000 | | 2,500 |
| 6 | BRIM Premium | 91300 | | <u>8,534</u> |
| 7 | Total | | \$ | 811,620 |

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2019 Org 0305

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 2,743,667 |
| 2 | Unclassified.....09900 | 21,435 |
| 3 | Current Expenses13000 | 338,953 |
| 4 | Repairs and Alterations.....06400 | 80,000 |
| 5 | Equipment (R).....07000 | 2,061 |
| 6 | BRIM Premium.....91300 | <u>98,754</u> |
| 7 | Total..... | \$ 3,284,870 |

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, Appropriation 07000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2019 Org 0306

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,614,784 |
| 2 | Unclassified.....09900 | 27,678 |
| 3 | Current Expenses13000 | 51,524 |
| 4 | Repairs and Alterations.....06400 | 968 |
| 5 | Mineral Mapping System (R)20700 | 1,114,009 |
| 6 | BRIM Premium.....91300 | <u>24,486</u> |
| 7 | Total..... | \$ 2,833,449 |

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

34 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2019 Org 0307

| | | |
|----|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 4,204,485 |
| 2 | Unclassified.....09900 | 108,687 |
| 3 | Current Expenses13000 | 3,769,645 |
| 4 | National Youth Science Camp.....13200 | 241,570 |
| 5 | Local Economic | |
| 6 | Development Partnerships (R).....13300 | 792,000 |
| 7 | ARC Assessment13600 | 152,585 |
| 8 | Infrastructure and | |
| 9 | Economic Development Projects.....23401 | 3,000,000 |
| 10 | Guaranteed Work Force Grant (R).....24200 | 970,955 |
| 11 | Mainstreet Program.....79400 | 164,655 |
| 12 | BRIM Premium.....91300 | 3,157 |
| 13 | Hatfield McCoy Recreational Trail.....96000 | <u>198,415</u> |
| 14 | Total..... | \$ 13,606,154 |

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the West Virginia Development Office for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

35 - Division of Labor -

Weights and Measures Fund

(WV Code Chapter 47)

Fund 0260 FY 2019 Org 0308

| | | |
|---|--|--------------|
| 1 | Personal Services and Employee Benefits....00100 | \$ 1,500,000 |
| 2 | Current Expenses13000 | 227,000 |
| 3 | Repairs and Alterations.....06400 | 28,000 |
| 4 | Equipment.....07000 | 15,000 |
| 5 | BRIM Premium.....91300 | <u>8,500</u> |
| 6 | Total..... | \$ 1,778,500 |

36 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2019 Org 0310

| | | |
|----|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 16,193,634 |
| 2 | Unclassified.....09900 | 184,711 |
| 3 | Current Expenses13000 | 196,302 |
| 4 | Repairs and Alterations06400 | 100 |
| 5 | Equipment.....07000 | 100 |
| 6 | Buildings25800 | 100 |
| 7 | Capital Outlay – Parks28800 | 3,000,000 |
| 8 | Litter Control Conservation Officers56400 | 142,712 |
| 9 | Upper Mud River Flood Control.....65400 | 163,385 |
| 10 | Other Assets69000 | 100 |
| 11 | Land (R)73000 | 100 |
| 12 | Law Enforcement.....80600 | 2,473,246 |
| 13 | BRIM Premium.....91300 | <u>45,141</u> |
| 14 | Total..... | \$ 22,399,631 |

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of

Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

37 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2019 Org 0314

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 9,249,358 |
| 2 | Unclassified.....09900 | 111,016 |
| 3 | Current Expenses13000 | 1,396,141 |
| 4 | Coal Dust and Rock Dust Sampling27000 | 482,128 |
| 5 | BRIM Premium.....91300 | <u>80,668</u> |
| 6 | Total..... | \$ 11,319,311 |

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

38 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2019 Org 0319

| | | |
|---|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 231,169 |
| 2 | Unclassified.....09900 | 3,480 |
| 3 | Current Expenses13000 | <u>118,138</u> |
| 4 | Total..... | \$ 352,787 |

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

39 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2019 Org 0323

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 51,433 |
| 2 | Unclassified.....09900 | | 593 |
| 3 | Current Expenses13000 | | <u>7,337</u> |
| 4 | Total..... | \$ | 59,363 |

*40 - Department of Commerce –**Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2019 Org 0327

| | | | |
|---|---|----|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 555,128 |
| 2 | Unclassified.....09900 | | 3,500 |
| 3 | Current Expenses13000 | | <u>15,089</u> |
| 4 | Total..... | \$ | 573,717 |

41 - Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2019 Org 0328

| | | | |
|---|---|----|--------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 195,487 |
| 2 | Unclassified.....09900 | | 12,395 |
| 3 | Current Expenses13000 | | 1,029,679 |
| 4 | BRIM Premium.....91300 | | <u>3,894</u> |

5 Total..... \$ 1,241,455

From the above appropriation for Current Expenses (fund 0612, appropriation 13000) \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

42 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2019 Org 0402

| | | | |
|---|---|----|------------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 335,494 |
| 2 | Current Expenses 13000 | | <u>2,118,865</u> |
| 3 | Total..... | \$ | 2,454,359 |

43 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2019 Org 0402

| | | | |
|---|---|----|------------|
| 1 | Personal Services and Employee Benefits00100 | \$ | 4,387,599 |
| 2 | Teachers' Retirement Savings Realized09500 | | 35,000,000 |
| 3 | Unclassified (R)09900 | | 300,000 |
| 4 | Current Expenses (R) 13000 | | 2,572,000 |
| 5 | Equipment.....07000 | | 5,000 |
| 6 | Increased Enrollment 14000 | | 2,910,000 |
| 7 | Safe Schools.....14300 | | 4,869,447 |

| | | | |
|----|---|-------|-----------|
| 8 | Teacher Mentor..... | 15800 | 550,000 |
| 9 | National Teacher Certification (R) | 16100 | 300,000 |
| 10 | Buildings (R)..... | 25800 | 1,000 |
| 11 | Technology Repair and Modernization..... | 29800 | 951,003 |
| 12 | HVAC Technicians..... | 35500 | 506,851 |
| 13 | Early Retirement Notification Incentive | 36600 | 300,000 |
| 14 | MATH Program | 36800 | 336,532 |
| 15 | Assessment Programs | 39600 | 1,339,588 |
| 16 | 21st Century Fellows | 50700 | 274,899 |
| 17 | English as a Second Language..... | 52800 | 96,000 |
| 18 | Teacher Reimbursement | 57300 | 297,188 |
| 19 | Hospitality Training..... | 60000 | 270,103 |
| 20 | Hi-Y Youth in Government | 61600 | 100,000 |
| 21 | High Acuity Special Needs (R)..... | 63400 | 1,500,000 |
| 22 | Foreign Student Education..... | 63600 | 100,013 |
| 23 | Principals Mentorship | 64900 | 69,250 |
| 24 | State Board of Education | | |
| 25 | Administrative Costs | 68400 | 271,779 |
| 26 | Other Assets..... | 69000 | 1,000 |
| 27 | IT Academy (R) | 72100 | 500,000 |
| 28 | Land (R)..... | 73000 | 1,000 |
| 29 | Early Literacy Program..... | 75600 | 5,700,000 |
| 30 | School Based Truancy Prevention (R)..... | 78101 | 2,015,366 |

| | | | |
|----|--|-------|----------------|
| 31 | Communities in Schools | 78103 | 400,000 |
| 32 | 21st Century Learners (R)..... | 88600 | 1,726,944 |
| 33 | BRIM Premium..... | 91300 | 342,859 |
| 34 | 21st Century Assessment | | |
| 35 | and Professional Development | 93100 | 2,004,447 |
| 36 | 21st Century Technology Infrastructure | | |
| 37 | Network Tools and Support..... | 93300 | 7,636,586 |
| 38 | Educational Program Allowance | 99600 | <u>516,250</u> |
| 39 | Total..... | | \$ 78,152,704 |

The above appropriations include funding for the state board of education and their executive office.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), National Teacher Certification (fund 0313, appropriation 16100), Buildings (fund 0313, appropriation 25800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), Land (fund 0313, appropriation 73000), School Based Truancy Prevention (fund 0313, appropriation 78101), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Teachers' Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for Webster County Board of Education for Hacker Valley; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge; and \$66,250 is for Project Based Learning in STEM fields.

44 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2019 Org 0402

| | | | | |
|---|--|-------|----|-------------------|
| 1 | Special Education – Counties | 15900 | \$ | 7,271,757 |
| 2 | Special Education – Institutions..... | 16000 | | 3,858,654 |
| 3 | Education of Juveniles Held in Pre-dispositional | | | |
| 4 | Juvenile Detention Centers | 30200 | | 625,614 |
| 5 | Education of Institutionalized | | | |
| 6 | Juveniles and Adults (R)..... | 47200 | | <u>18,472,954</u> |
| 7 | Total..... | | \$ | 30,228,979 |

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

45 - State Board of Education –

State Aid to Schools

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2019 Org 0402

| | | | |
|----|---|-------|--------------------|
| 1 | Other Current Expenses | 02200 | \$149,651,626 |
| 2 | Advanced Placement..... | 05300 | 595,663 |
| 3 | Professional Educators..... | 15100 | 876,075,903 |
| 4 | Service Personnel..... | 15200 | 297,680,615 |
| 5 | Fixed Charges | 15300 | 103,542,614 |
| 6 | Transportation..... | 15400 | 73,375,145 |
| 7 | Professional Student Support Services | 65500 | 38,686,260 |
| 8 | Improved Instructional Programs..... | 15600 | 49,544,683 |
| 9 | 21st Century Strategic | | |
| 10 | Technology Learning Growth..... | 93600 | <u>21,584,131</u> |
| 11 | Basic Foundation Allowances..... | | 1,610,736,640 |
| 12 | Less Local Share | | (458,622,709) |
| 13 | Adjustments | | <u>(1,694,701)</u> |
| 14 | Total Basic State Aid | | 1,150,419,230 |
| 15 | Public Employees' Insurance Matching | 01200 | 232,810,116 |
| 16 | Teachers' Retirement System | 01900 | 72,719,190 |
| 17 | School Building Authority..... | 45300 | 23,420,520 |
| 18 | Retirement Systems – Unfunded Liability.... | 77500 | <u>353,640,000</u> |
| 19 | Total..... | | \$1,833,009,056 |

*46 - State Board of Education –**Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2019 Org 0402

| | | |
|----|---|----------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 1,305,125 |
| 2 | Unclassified.....09900 | 268,800 |
| 3 | Current Expenses 13000 | 883,106 |
| 4 | Wood Products – Forestry | |
| 5 | Vocational Program 14600 | 73,715 |
| 6 | Albert Yanni Vocational Program 14700 | 132,123 |
| 7 | Vocational Aid 14800 | 23,239,266 |
| 8 | Adult Basic Education 14900 | 4,894,607 |
| 9 | Program Modernization 30500 | 884,313 |
| 10 | High School Equivalency | |
| 11 | Diploma Testing (R) 72600 | 790,743 |
| 12 | FFA Grant Awards.....83900 | 11,496 |
| 13 | Pre-Engineering Academy Program84000 | <u>265,294</u> |
| 14 | Total..... | \$ 32,748,588 |

Any unexpended balance remaining in the appropriation for High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

*47 - State Board of Education –**West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2019 Org 0403

| | | |
|---|---|---------------|
| 1 | Personal Services and Employee Benefits00100 | \$ 11,588,010 |
|---|---|---------------|

| | | | |
|---|--|-------|----------------|
| 2 | Unclassified..... | 09900 | 110,000 |
| 3 | Current Expenses | 13000 | 2,145,469 |
| 4 | Repairs and Alterations..... | 06400 | 85,000 |
| 5 | Equipment..... | 07000 | 70,000 |
| 6 | Buildings (R)..... | 25800 | 50,000 |
| 7 | Capital Outlay and Maintenance (R) | 75500 | 82,500 |
| 8 | BRIM Premium..... | 91300 | <u>140,842</u> |
| 9 | Total..... | | \$ 14,271,821 |

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

DEPARTMENT OF EDUCATION AND THE ARTS

48 - Department of Education and the Arts –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0294 FY 2019 Org 0431

| | | | |
|---|--|-------|------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 533,834 |
| 2 | Unclassified..... | 09900 | 35,000 |
| 3 | Center for Professional Development (R)..... | 11500 | 1,511,331 |
| 4 | Current Expenses | 13000 | 7,162 |
| 5 | WV Humanities Council..... | 16800 | 250,000 |
| 6 | Benedum Professional | | |
| 7 | Development Collaborative (R)..... | 42700 | 429,775 |

| | | | |
|----|--|-------|---------------|
| 8 | Governor's Honors Academy (R) | 47800 | 1,059,270 |
| 9 | Educational Enhancements | 69500 | 573,500 |
| 10 | S.T.E.M. Education and Grant Program (R).... | 71900 | 492,262 |
| 11 | Energy Express | 86100 | 382,935 |
| 12 | BRIM Premium..... | 91300 | 5,336 |
| 13 | Special Olympic Games..... | 96600 | <u>25,000</u> |
| 14 | Total..... | | \$ 5,305,405 |

Any unexpended balances remaining in the appropriations for Center for Professional Development (fund 0294, appropriation 11500), Benedum Professional Development Collaborative (fund 0294, appropriation 42700), Governor's Honors Academy (fund 0294, appropriation 47800), and S.T.E.M. Education and Grant Program (fund 0294, appropriation 71900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Educational Enhancements (fund 0294, appropriation 69500), \$73,500 shall be used for the Clay Center and \$500,000 for Save the Children.

49 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2019 Org 0432

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 3,299,919 |
| 2 | Current Expenses | 13000 | 610,843 |
| 3 | Repairs and Alterations..... | 06400 | 1,000 |
| 4 | Equipment..... | 07000 | 1 |
| 5 | Unclassified (R) | 09900 | 28,483 |

| | | | |
|----|--|-------|---------------|
| 6 | Buildings (R)..... | 25800 | 1 |
| 7 | Other Assets..... | 69000 | 1 |
| 8 | Land (R)..... | 73000 | 1 |
| 9 | Culture and History Programming..... | 73200 | 231,573 |
| 10 | Capital Outlay and Maintenance (R) | 75500 | 19,600 |
| 11 | Historical Highway Marker Program..... | 84400 | 57,548 |
| 12 | BRIM Premium..... | 91300 | <u>39,337</u> |
| 13 | Total..... | | \$ 4,288,307 |

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The Current Expense appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

50 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2019 Org 0433

| | | | |
|---|--|-------|--------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 1,261,316 |
|---|--|-------|--------------|

| | | | |
|---|--------------------------------------|-------|---------------|
| 2 | Current Expenses | 13000 | 139,624 |
| 3 | Repairs and Alterations..... | 06400 | 6,500 |
| 4 | Services to Blind & Handicapped..... | 18100 | 161,717 |
| 5 | BRIM Premium..... | 91300 | <u>18,205</u> |
| 6 | Total..... | | \$ 1,587,362 |

51 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2019 Org 0439

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 1,767,321 |
| 2 | Current Expenses | 13000 | 1,591,805 |
| 3 | Mountain Stage | 24900 | 300,000 |
| 4 | Capital Outlay and Maintenance (R) | 75500 | 50,000 |
| 5 | BRIM Premium..... | 91300 | <u>48,453</u> |
| 6 | Total..... | | \$ 3,757,579 |

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

52 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2019 Org 0932

| | | | |
|---|--|-------|---------------|
| 1 | Personal Services and Employee Benefits | 00100 | \$ 10,953,816 |
| 2 | Independent Living Services..... | 00900 | 429,418 |